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International Court of Justice

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Official transcript of the International Military Tribunal in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 9 April, 1946, 1000-1245, Lord Justice Lawrence presiding.

THE PRESIDENT: Yes, Dr. Dix.

HANS HEINRICH LA MERS resumed.

CROSS-EXAMINATION -- continued.

BY DR. DIX:

Q Witness, it has been pointed out that I was putting my questions too soon after your answers and that you were replying to my questions too quickly.

MR. JUSTICE JACKSON: I should like to take up a matter before the examination of the witnesses, if I may ask the indulgence of the Tribunal.

I regret to say that this matter of printing documents has proceeded in its abuses to such an extent that I must close the document room to printing documents for German counsel. Now, that is a drastic step but I know of nothing less that I can do and I submit the situation to the Tribunal.

We have received from the General Secretary's Office an order to print and have printed a document book number one for Rosenberg. That document book does not contain one item in its 107 pages that by any stretch of the imagination can be relevant to this proceeding. It is violent anti-semitism and the United States simply cannot be put in the position even at the order, which I have no doubt was an ill-considered one, of the Secretary of the Tribunal to print [illegible] to the press just plain anti-semitism and that is what this document is. Now, I ask you to consider what it is.

I should say it consists of two kinds of things, anti-semitism and what I would call, with the greatest respect to those who think otherwise, rubbish and this is an example of the rubbish we are required to print at the expense of the United States and I simply cannot sit silent any longer.

"The Philosophic methods suited to bourgeois society is a critical one. That holds true in a positive as well as a negative sense. The rule by the purely rational form, the subjegation of nature, the freeing of the autonomous personality, all that is contained in the method of thinking

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classically formulated by Kant. At the same time, though, it speaks also of the isolation of the individual, the near depletion of nature and community life, the connection with the secluded world of forms which all critical thinking is striving for."

Now, what in the world are we required to print that for?

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Let us look at some of the anti-Semiticism.

THE PRESIDENT: Now, Mr. Jackson, this red light is on. I do not know why.

MR. JUSTICE JACKSON: I suppose that I am going too fast, Your Honor.

Now, let us look at what we are actually asked hear to disseminate, page 47 of this documents book. "Actually, the Jews, as to the Canonites, the Phenicians and Carthaginians, represent a bastard race"; --- and it goes on largely upon that theme. Then it goes on "The Jews are arrogant in success, submissive in failure, shrewd and crooked wherever possible, greedy, of remarkable intelligence and not creative." I do not want to take this Tribunal's time, but last night we receive an additional order to print 260 copies more of this sort of thing and I have had to stop the presses, and we cannot accept the duty of printing this stuff unless it is reviewed by the Tribunal.

Most of this book, as far as we have been able to check it, has already been rejected by the Tribunal and nobody pays the least attention to the Tribunal's rejection, and we are ordered to print. Now, with the greatest deference, I want to say that the United States will print any document that a member of this Tribunal or an alternate certifies, but we can no longer print these things at th request of the German counsel nor at the ill-considered directions which we have been receiving.

DR. THOMA (Counsel for defendant Rosenberg): To start with, I want to make the following statement, namely that on the 8th of March, 1946, I was granted expressly the permission that I could quote philosophical books in my document book.

THE PRESIDENT: Yes, Dr. Thoma.

DR. THOMA: Consequently, I have based my work on the assumption that Rosenb ideology is an execution of the so-called new Romantic philosophy, and from seric new Romantic philosophical works which have been recognized by scientific quotat Secondly, gentlemen, I have attempted not to submit any anti-Semitic book, and what has just been read to me must be absolute mistakes of translation.

I have quoted the work of a famous theological teacher, and I have quoted a work of a recognized Jewish scientist by the name of Isma Elbogen; and , thirdly, I have quotedfrom a book which had been written by a Jewish iniversity professor, Max Kreutzxtein, and I have deliberately refrained from making anti-Semitic

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propaganda today in this courtroom. I want to request, therefore, that these documents be once more investigated to see whether this is a fact serious or trite. I still maintain that the works which I have quoted from American, English, French and other recognized scientists are of value and the quotations which Mr. Justice Jackson has just made regarding that bastard race originate, as I know, from non-German scientists, but I have to look at that once more.

At any rate, may I ask the Tribunal that my quotations should be investigated so as to show that they are in any way non-scientific or not prejudicial.

THE PRESIDENT: Mr. Justice Jackson, the Tribunal thinks that there must have been some mistake in sending the translation division this book of documents without having it presented to counsel for the Prosecution first. The Tribunal made an order some time ago, saying that counsel for the Prosecution should have the right to object to any document before it is sent to the translation department. Some difficulty then arose because documents had been mostly in German. There was a difficulty about counsel for the Prosecution making up their minds as to their objections until they have been translated. That difficulty was presented to us a few days ago; I think you were not in court at the time, but no doubt other members of the United States counsel were here. We had a full discussion on the subject, and it was then agreed that counsel for the Prosecution should see counsel for the defense and, as far as possible, discuss with them and point out to them the documents which counsel for the Prosecution thought ought not to be translated, and, in case of disagreement, it was ordered that the matter should be referred to the Tribunal. So that, so far as the Tribunal are concerned, they have done everything that they can to lighten the work of the translation division. Of course, in so far as documents have been presented to the translation division for translation, which the Tribunal had already denied, that must have been done by mistake because the General Secretary's office no doubt ought to have refused to hand over to the translation division any document which the Tribunal had already denied. But the general priciples which I have attempted to explain seem to the Tribunal to be the only priciples upon which we can go in order to lighten the work of the translation division. That is to say that counsel for the Prosecution should meet counsel for the Defense and point out to them what documents are so obviously irrelevant that they ought not to be translated.

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MR. JUSTICE JACKSON: Well, if Your Honor please, I do not think it is a mistake. It arises from a fundamental difference which this Tribunal has not, I think, made clear.

What the issues here are: Counsel says that he thinks he should try the new Romanticism of Rosenberg. We are charging him for the murder of four or five million Jews. The question is of ideology here. The only purpose in ever referring to the anti-Semitic sentiments is the motive. There is no purpose here to try the question of anti-Semitism or the superiority of races, the fundamental difference in viewpoint. They believe, and, of course, if they can try this issue with this Tribunal as a sounding board, it forwards their purpose. They believe in trying that issue.

The first we get is this book with the order to print it. We cannot tell what they are going to present something in the document room. I simply must not become a party to this spirit of anti-Semiticism. The United States cannot do it, and the Tribunal's directions to counsel are simply being ignored. That is the difficulty here.

THE PRESIDENT: I do not know if you have in mind the order which we made on the 8th of March, 1946, in these terms:

"To avoid unnecessary translation, Defense Counsel will indicate to the Prosecution the exact passages in all documents which they propose to use, in order that the Prosecution may have an opportunity to object to irrelevant passages. In the event of disagreement between the Prosecution and the Defense as to the relevancy of any particular passage, the Tribunal will decide what passages are sufficiently relevant to be translated. Only the cited passages need be translated, unless the Prosecution required the translation of the entire document.

Now, of course, if you are objecting to that ruling on principle, well and good, but the ruling seems, up to the present at any rate, to the Tribunal to be the best rule that can be laid down, and we reiterated it after full discussion a very few days ago.

MR. JUSTICE JACKSON: I am calling Your Honor's attention to the fact that Your Honor's order is not being observed and that we are being fed these documents to print without any prior notice. The boys in the press room are not lawyers; they are not in the position to pass on these things. I do not have the personn

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My personnel, as this Tribunal well knows, is reduced very seriously. I cannot undertake it in the pressroom here after an order comes from the General Secretary's office, a review of what can be done.

THE PRESIDENT: Well, but did you --

MR. JUSTICE JACKSON: The order is not being carried out; that is the difficu

THE PRESIDENT: You mean that none of these documents were submi tted to the counsel for the Prosecution?

MR. JUSTICE JACKSON: The documents were not submitted to counsel for Prosecution. They came to the press room with an order to print from the General Secretary's office. That is what I am arguing, a grievance; one I shall have to remedy. We are in the very peculiar position, Your Honor, of being asked to be press agents for these defendants. We were ordered to print 260 copies of these stencils that I have. The United States cannot be acting as press agents for the distribution of this anti-Semitic literature which we protested long ago was one of the vices of the Nazi regime, particularly after they have been argued on and have been denied by the court. This, it seems to me, is a flagrant case of contempt of court, to put these documents through after the Tribunal has ruled on them and ruled out this whole document book of Rosenberg.

THE PRESIDENT: Certainly, so far as any documents are concerned, they ought never to have been submitted to the translation department.. Might not the Tribunal hear from Sir David Maxwell Fyffe because he was here on the previous occasion, the last occasion that we dealt with this subject?

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SIR DAVID MAXWELL FYFE: May it please your Lordship, my understanding of the matter is that the Rosenberg documents had been processed -- that was what we were informed -- before our last discussion of the matter, and I therefore suggested to the Tribunal that the practical application of the proceedure should begin with the documents of the Defendant Frank. That is what I said to the Tribunal.

THE PRESIDENT: Then my recollection is that after we made this rule of the 8th of March, 1946, Counsel for the Prosecution -- I think for all four of the Prosecution, and I rather think the document came in signed by the United States but I am not certain of it -- pointed out that there were great difficulties in carrying out this ruling of the 8th of March, because of the difficulty of Counsel for the Prosecution making up their minds about what documents were irrelevant, having regard to the fact that they had to be translated for them to do it. Is that not so?

SIR DAVID MAXWELL-FYFE: That difficulty arose with Dr. Horn over the Ribbentrop documents. But a written application was made to the Tribunal to vary this rule of the 6th of March 1946, and it was then after that that we had the subsequent discussion in open court when we came to the conclusion that we better adhere to the rule of the 8th of March. And I see about Rosenberg that the documents --

THE PRESIDENT: These documents had been processed already beforehand.

SIR DAVID MAXWELL-FYFE: Since our last discussion of course we have been trying to get this procedure going. Dr. Dix has met Mr. Dodd and myself on the Schacht documents, and I understand that other learned Defense Counsel are making arrangements to meet various members with regard to theirs. But before this time, before the matter arose sharply on the Ribbentrop documents, there hadn't been any discussion with Counsel for the Prosecution. That is the position.

THE PRESIDENT: But what I am pointing out is that that was because the Prosecution were not carrying out the rule of the 8th of March. It may have been impossible to carry out, but they were not carrying it out.

SIR DAVID MAXWELL-FYFE: I don't know exactly how you mean "The Prosecutio weren't carrying it out."

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THE PRESIDENT: Both the Prosecution and the Defense, I suppose, because the application which came to us after the ruling of the 8th of March was made on behalf of the Prosecution, that they had such difficulties in getting translations fo the documents that they proposed another ruling.

SIR DAVID MAXWELL-FYFE: I am sorry, my Lord, that we haven't carried it out. It is the first time that anybody suggested to me --

THE PRESIDENT: I don't mean to criticize you.

SIR DAVID MAXWELL-FYFE: I have taken immense trouble, cooperated in every way. I wasn't aware that we were at fault I am very sorry if we were.

THE PRESIDENT: I don't mean that, Sir David, but I think there was a difficulty in carrying this out, and I think there was a proposal that the rule should be varied. I will look into that and see whether I am right about it. I remember seeing such an application and then we had the subsequent discussion in open court in which we decided to adhere to this rule of the 8th of March, and no doubt this difficulty has arisen, as you pointed out, because of the Rosenberg documents having been processed before.

Probably the best course would be now --

(Brief conference on the Bench.)

Mr. Justice Jackson, wouldn't the best course be for you to object in writting to all the documentary matter with which you take issue, and then such writtings will be dealt with by the Tribunal after argument.

MR. JUSTICE JACKSON: But, your Honor, the Tribunal has once rejected the documents, and yet we get an order to print. The Tribunal's orders are not being observed, and -- I don't want to criticize Counsel -- but we have had no opportunity to pass on these. These stencils that I stopped running last night are not anything that has been supplied to us. They have no possible place in the legitimate issues of this Tribunal and we will get nowhere talking to Dr. Thoma about it. He thinks their philosophy is an issue.

What I think must be done if we are going to get this solved is that the Tribunal -- if I may make a suggestion,

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which I do with great deference; I may be a biased judge of what ought to be done; I never pretended to complete impartiality--that the Tribunal appoint a Master to pass on this. We won't finish this by discussion between Dr. Thoma and anybody I can name. My suggestion is such an official pass on these documents before they are translated. If the Master finds a doubtful matter he can refer it back to you. We shouldn't be in the position of either agreeing or disagreeing with them in any final sense, of course. I realize it is too big a burden to put on the Tribunal to pass on these papers in advance and too big a burden on the organization to keep printing them. Paper is a scarce commodity today. Over 25,000 sheets have gone into the printing of a bookthat has been rejected. I think there is no possible way out except that a lawyer with some idea of relevance and irrelevance represent this Tribunal in passing on these things in advance, rather than leaving it to Counsel.

I wouldn't even venture to sit down with Dr. Thoma, because we start at odds: He wants to justify anti-semitism and go into its philosophy, while I assert that it is the murder of Jews that is an issue here, not whether the Jewish race is or is not liked by the German people. We don't care about that. It is a matterof settling these issues.

GENERAL RUDENKO: With the Tribunal's permission, I would like to add a few words to what Mr. Jackson has said.

I also do not wish to criticize the Counsel, but the Tribunal has already expressed a supposition that there is a mistake. And I would like to draw the attention of the Tribunal to the fact that this mistake took place too often. I will permit myself to remind you about the documents in connection with the Versailles Treaty, which were denied by the Tribunal, the Tribunal will remember that a considerable amount of time was spent on listening to the reading of the documents which were presented by Dr. Stahmer and Dr. Horn, and I would like to remind the Tribunal about another fact, when another decision of the Tribunal was violated. Perhaps it was done by mistake; perhaps not. It took place when one of the documents was presented by Dr. Babel, before it was accepted by the Tribunal as evidence. And it seems to me that it would be very useful if the Tribunal would find it possible, for the purpose of

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saving time, to guarantee in more decisive manner the compliance not only by the Prosecution but also by the Defense Counsel of the rules set out by the Tribunal.

THE PRESIDENT: Yes, Dr. Thoma?

DR. THOMA: I am most concerned with the accusation that I didn't obey the instructions issued by the Tribunal. During discussions regarding which documents were admissible, I had explained in detail just which philosophical books I was going to quote from and why I wanted to quote those passages. It has been stated during the case for the Prosecution that Rosenberg had invented his philosophy, invented it for the purpose of preparing an aggressive war and for the committing of war crimes. I have considered it my duty to prove that this so-called national antipathy--

THE PRESIDENT: Will you tellthe Tribunal where the Prosecution states that he invented his philosophy, whether in the indictment or in the presentation?

DR. THOMA: Yes, I can prove it. It appears in Churchill's speech, that Rosenberg's philosophy had been used for that.

THEPRESIDENT: You say it appears in Churchill's speech?

DR. THOMA: Yes.

THE PRESIDENT: What have we got to do with that? I asked you whethe the Prosecution alleged it in the indictment or alleged it in the course of the presentation of the Prosecution, and you answer me that Mr. Churchill--

DR. THOMA: That is the evidence here, that he repeatedly stated --

(A short pause).

I didn't say Churchill. I said Mr. Justice Jackson. In his presentation he said things which in their sense meant about the same thing. Consequently I felt that it was my duty to present thatphilosophy which had been in existence before Rosenberg and raised similar arguments, which is the philosophy of the entire world.

Regarding the presentation of the document book, here is what happened: The translator's department asked me, because they had a little free time just then, to submit my document book as soon as possible, in fact before it was handed to the Tribunal, and so it is a fact that the translation

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department received it before the Tribunal. But the Tribunal in its resolution of the 8th of March, 1946, had granted me permission that I could use quotations from these philosophical works, only that anti-semitic works of Elbogen were not granted. Consequently I immediately informed the Tribunal that documents were contained in my book which had not been granted by the Tribunal.

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Secondly -- and this is something extremely important -- I have stated that the quotation which Mr. Justice Jackson has just quoted originates from a French scientist, Mr. Labouche

Moreover, in my document book, I have marked with red pencil those passages which were to be translated, and the quotation which Mr. Justice Jackson has quoted was not marked in red and was not meant to be included in the document book. This is a regrettable error.

Thirdly, I would like to refer to the fact -- I have just received another clue, that the expression is, "Rosenberg has developed the philosophical technique of the conspiracy and has thus created an educational system for an aggressive war." That is the expression in Mr. Justice Jackson's presentation, and it was for that reason that I wanted to point out that this philosophical problem is an important one and is necessary for my case. I do not think, therefore, that I could be accused of not obeying any ruling of the Tribunal.

THE PRESIDENT: Well, Dr. Thomas, were these document sent to the press room or were they sent to the translation department?

DR. THOMAS: In my opinion, they were sent to the translation department, since this department had told me that they were having a little free time and this would be a great onslaught on material and they would like to translate it then.

THE PRESIDENT: Mr. Justice Jackson stated apparently that they had been sent to the press room and were being disseminated to the public in that way, but on the outside of each document book there is this notice: That they are not to be publicized until they are presented before the Tribunal in open court and then only that portion actually submitted as evidence. Therefore, any documents which are sent to the translation room are not disseminated, or ought not to be disseminated to the press and ought not to be publicized until they are presented before this Tribunal.

There seems to be a number of misunderstandings about this which seem to have arisen principally from the fact that you submitted your documents to the translation department before they had been submitted to the Tribunal, and therefore some of them got translated which were subsequently denied by the

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Tribunal. Is that right?

DR. THOMAS: No, My Lord, that is not right. To start with, this was an internal process and a request from the translating authority. I had given them the document book because they asked me to do so.

THE PRESIDENT: I did not say who had asked whom. I said that the translation department got the documents for translation -- they received them before they were submitted to the Tribunal, and, in consequence, they translated certain documents which were subsequently denied by the Tribunal.

DR. THOMAS: Of course, the only rejected works were the three anti-Semitic works. That these documents reached the press is something that I did not know. I was only trying to alleviate the position of the translating department, and I have subsequently informed the General Secretary that I submitted the document book and have pointed out the facts to him.

Quotations from my philosophical works, however, were granted to me, and I want to point out again that I was always of the opinion that this was altogether an internal process and that such documents could reach the press I did not know. So far, all I knew was that quotations that were not read in Court were not allowed to reach the press, and, of course, I have adhered to that rule, and nothing of that type has been stated in Court and could not have reached the press.

THE PRESIDENT: As you no doubt know, the first granting of documents when they are applied for is expressly provisional, and afterwards you have to submit your documents in open Court, as Dr. Horn did, and then the Tribunal rules upon their admissinility, and this other rule was introduced for the purpose of preventing undue translation. It was decided then that after the Tribunal had given its provisional ruling as to what was provisionally relevant, that you should then submit the passages you wanted to quote to the Prosecution to give them an opportunity to object, so that the translation department should not be unduly burdened. That, as you have explained and as Sir David Maxwell-Fyfe has said, was not carried out in your case, partly, possibly, because as you say the translation division was prepared to undertake certain work. Therefore, documents were submitted to them which the

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Tribunal subsequently ruled to be inadmissible.

MR. JUSTICE JACKSON: May I make a correction which seems to lead to misunderstanding? I did not mean to say that Counsel had sent the documents to the press in the sense of a newspaper press. They were sent to the press, the printing press. They were, of course, printed. The 206 copies we were ordered to print contained the usual release notice that they were not to be released until used. They have not reached the press, and I did not mean to say that they had been sent to the newspaper press, they were sent to our printing press.

THE PRESIDENT: Yes, Dr. Dix?

DR. DIX: (Counsel for defendant Schacht): Mr. President, Gentlemen of the Tribunal: Before a resolution is made on the strength of the discussion which we have just heard, may I make just a few remarks, not referring to the case of Rosenberg but to the defense in general?

Very serious accusations against the Defense have been raised. The expression was used that the Prosecution was not the press agent of the Defens and the accusation was raised that the Defense were trying to make propaganda, and then these accusations reached their peak in the most serious one of all, the most serious that one could possibly make in such a trial as this; namely, that there is supposed to be contempt of Court on behalf of all the Defense Counsel.

I can raise the strongest and best argument against these accusations whi one can raise; namely, that we have an absolutely clear conscience in this respect. Anyone who has listened to the debate of the last 30 minutes must have recognized that those differences of opinion which have occurred here and on the basis of which the Tribunal will have to announce a decision, are in turn once more due to misunderstandings which have occurred within this courtroom.

Mr. Justice Jackson has kindly stated that he was not talking about the newspaper press when he waid press but the printing press, and my colleague, Dr. Thoma, has stated that the only reason why these documents reached the translation department was that the translating department, very industriously and reasonable from their point of view, had said, "We do not have very much

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work at the moment. Please let us have it, and we can start to translate it."

I believe that we could avoid all these difficulties if we mutually agree that both parties, the Prosecution and the Defense, are working with the best wish and loyalty, and that any thought that we should deliberately disregard an order from the Tribunal never exists. Errors and mistakes can always happen.

May I just remind you of the leakage to the press, namely, that some things were sent to the press before they were actually the subject of the proceedings here in Court. That was something that at the beginning of the trial happened quite frequently. I do not want to quote examples since the Tribunal knows them.

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It is quite certain that it wasn't the defense who originated it; I don't know who, but not the defense. Far be it from me to reproach anybody. Things like that do happen, and such an instrument as this trial must have a running-in period.

But please, may I remind you that it was us, the defense, through my person, who quite definitely stated that only such matters should reach the press as were introduced into the record here in the public sessions; and it was after that that the Tribunal passed its ruling. Previously it had been different.

Now, I have never considered any accusations as insults, but merely as human error. For instance, it was impossible for me to get the Charter at the beginning of the trial, but eventually it was kindly placed at my disposal.

What I want to say is that if so complicated a machinery as this is started, then there must be errors and mistakes.

Now we, together with Sir David, have made a useful start to deal with documents in the best practical manner. In other words, first of all, I talked to the prosecution -- and that was when we only had the German text -- regarding which passages the prosecution was proposing to object to. We realised the language difficulties, and we realised the problem regarding the different languages of the other signatories. However, even that could be overcome, as has transpired in my conversations with Sir David, since we managed to find an interpreter and the whole thing appeared an extremely useful and practical system.

Now, first, we were saving work for the translating department, and secondly, we were saving the Tribunal from having to make unnecessary decisions, and it was working beautifully. I want to claim for the defense -- and I am sure that Sir David will not contradict me -- that by means of our official talks we were, in fact, the leading party and we cooperated to the best of our ability.

In other words, I want to say that the defense during this trial is in a very difficult position. I think every one of you will grant that human ability is practically not enough to produce the necessary political

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tact which is necessary for the defense during this trial, without making some small mistake or other. At any rate, I for myself do not claim that I am absolutely sure of myself in this respect and won't become the perpetrator of a small error in one case or another. I am finding myself in a very difficult situation, difficult so far as the world is concerned, difficult so far as the Tribunal is concerned, and difficult so far as the German public is concerned.

May I urge Mr. Justice Jackson to appreciate our difficult task and not to raise accusations and emphasize things upon his part which, unfortunately, have been raised by the German press frequently. We can't always react to every unjustified article which appears in the press, and we can't always approach the Tribunal saying "please help us." The Tribunal has more important tasks than to continuously protect the defense.

However, as to the particular accusation that National Socialist propaganda was being made here or that anti-Semitic propaganda was being made here, about that I think I can say with a clear conscience that none of the defense counsel, no matter what his own philosophy or what his political views -- none of the defense counsel has ever dreamt of trying to use this court room to make propaganda for the dead world of the Third Reich. That would not only be wrong, it would be worse than a wrong; I would say that it would be an incredible stupidity to do a thing like that.

But, just because we are being attacked and because we cannot defend ourselves, and because we don't want to trouble the Tribunal on every accusation, I am asking Mr. Justice Jackson to somewhat clear the atmosphere and to state to us that these serious accusations -- contempt of court, anti-Semitic propaganda, or National Socialist propaganda, and so on and so forth -- that they weren't really meant to be raised seriously.

I think this period of comradeship, in which we have cooperated with the prosecution so far, should continue; and I must openly confess that I am remembering that cooperation gratefully, that I am gratefully remembering the extremely good service and the comradeship which I have found on the part of these gentlemen, and I am anxious that this should be

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retained and that there should not be a state of belligerency. Where would it lead us to, since we are all pursuing the same aims?

I am not only asking him to do it, as I know he will do it without my request -- that is, that he, Mr. Justice Jackson, make some statement so that this awkward matter, which is probably not only depressing upon the defense but the whole court room, should be clarified somehow.

May I thank you gentlemen of the Tribunal for being good enough to listen to me for so long, but I believed that the matter was sufficiently significant and I wished to aim at a further clear and perfect cooperation between the prosecution and the defense.

DR. THOMA: Gentlemen of the Tribunal. May I just very briefly, for factual rectification, be permitted a few words for one moment?

I want to quote exactly from which passage it becomes apparent that Rosenberg is being held solely responsible for the mistaken ideology. It says in the American indictment, or case for the prosecution, at page 2254, that Rosenberg has reorganized the German educational system and has exposed the German people to the will of the conspirators so as to psychologically prepare the German nation for a war of aggression.

That is a quotation which is here at my disposal.

Secondly -- and one more word, please -- I am forced to reply to the accusation raised by Mr. Justice Jackson personally, and I must state something which I would not normally have said in this court room, namely, that I have told Rosenberg repeatedly, "Mr. Rosenberg, I cannot defend your anti-Semitism; that you have to do yourself." For that reason I have limited my documents considerably, but I have considered it my duty to place at Rosenberg's disposal every means necessary for him to defend himself on this point.

I would like to draw your attention once more to the fact that this passage which has been quoted by Mr. Justice Jackson was not marked in red in the document book, and has been included in error.

MR. JUSTICE JACKSON: I certainly don't want to be unfair to our adversaries, I know they have a very difficult job. However, I hope the Tribunal has before it -- and I shall withdraw all characterizations and let

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what I have to say stand on the facts-- the order of the 8th of March, 1946, paragraph 3 thereof. I call the attention of the Tribunal to the fact that that reads:

"The following documents are denied as irrelevant. Rosenberg" -- and then follows a list of documents -- "Kunstmark; History of the Jews in Germany; History of the Jewish People." Those are the only three that I shal take time to call to your attention.

Two days after that order Rosenberg's counsel filed with this Tribunal, on the 10th of March, 1946, a rather lengthy memorandum in which he renewed his request for quotations from the books listed.

On the 23rd of March, 1946, this Tribunal again denied that request as irrelevant.

I will now hand to you the stencils which we were ordered, by the order of 8 April 1946, to print. They are a little difficult to read. The first is a quotation from the History of the Jewish people, one of the prohibited books. The ne t is a quotation from Kunstmark, another of the prohibited documents. And the third is from the History of the Jews in Germany, the third of the books that I have mentioned.

We have not had time to examine all of these stencils, but a hurried examination of them indicates that they are very largely, if not entirely, quotations from the prohibited documents.

I will make no characterization of it; I simply rest on those facts.

THE PRESIDENT: Mr. Justice Jackson, doesn't the whole point turn upon the date at which those documents were submitted to the Translation Department? Because what Dr. Thoma says is that in consequence of the Translation Department being ready to accept documents, he handed them in before they were actually denied by the Tribunal. And if that is so, it would be obvious, would it not --

MR. JUSTICE JACKSON: My Lord, I didn't get when he said. That is, I did not understand that they were handed in before the 8th of March, 1946. But in any event, even if they were translated, the order to us to print is dated the 8th of April , 1946, and was delivered with them on the 8th of April.

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Now certainly there was time after the denial to have stopped our spending this amount of money and effort printing things that had been prohibited, and which were prohibited twice.

I won't characterize it; the facts speak for themselves.

THE PRESIDENT: Dr. Thoma, can you help us about the dates at all? Can you help us as to this? Mr. Justice Jackson has stated that after these three documents had been refused in the first instance, you then renewed your request for them on the 10th of March, 1946, and that on the 23rd of March, 1946, they were finally denied.

Well now, when did you send the documents to the translation room?

DR. THOMA: The documents, I remember, went into the Translating Department before March 8. There had been a session regarding admissibility of documents, and it was around about that time, and before a decision had been made, that I had been contacted by a representative of the Translating Department, who asked about the document book, since they had heard that it had been completed.

I then applied in this court room and sought to be given permission to use this philosophy. I gathered the impression that the Tribunal would not want to use these documents; consequently, I submitted a written application to the Tribunal so that these documents would be granted me. When, subsequently, I was informed that anti-Semitic books would not be permitted me -- which I think occurred a few days later than the date of that order of the Tribunal -- then I did, of course, pass on the information saying, "I draw your attention to the fact that these books were not granted me."

THE PRESIDENT: Dr. Thoma, quite naturally, you aren't able to give us the exact dates at this moment, but we will look into this matter fully.

DR. THOMA: May I just please repeat that I myself have pointed out that quotations were contained in the book which had been refused? And please, may I ask you to draw the conclusion from that, that I was not trying to do anything which was not permissible?

THE PRESIDENT: I think, if the document had been denied, the proper

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course would have been to withdraw the documents or to communicate with the Tranlation Division notifying them that they should be withdrawn.

However, the Tribunal thinks that the best course in this matter would be for the Tribunal to consider Mr. Justice Jackson's suggestion. That is, in order to relieve the prosecution of the task of deciding upon or objecting to the documents which are to be submitted to the translation rooms, that matter should be considered by someone deputed by the Tribunal as a master.

The Tribunal thinks that Mr. Justice Jackson, or the Prosecutor's Committee, should apply in writing to strike out all the irrelevant documents which they complain of in the document book on behalf of the defendant Rosenberg, which has been submitted.

Third, for the present, the Tribunal would adhere to the system which they have established with the consent of the prosecuting counsel.

The only thing I need add to that is that I find that I was right in saying that the Court Contact Committee of the prosecutors did apply to the Tribunal on the 29th of March, 1946 -- and I have the document before me -- requesting the Tribunal to vary the ruling which they had made, namely, Ruling 297, made on the 8th of March, 1946.

DR. THOMA: My Lord, may I say that subsequently I visited the officer and told him that the documents must be taken out, that they must not stay in. However, it transpired that hundreds of copies had already been bound and prepared or processed, and it was said, "Well, after all, they aren't going to be quoted, so they might as well stay in, since they aren't going to be quoted." I expressly made the request to have them taken out of the document book.

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Of course, I didn't mean that the Tribunal were asking the Prosecution to apply in writing to strike out documents which have already been rejected. Those documents, of course, will go out without any application; but if and insofar as there are other documents contained in the Rosenberg document book to which the Prosecution object, then they might conveniently apply, although, of course, that matter will have to be discussed in open court.

As I have already pointed out, the granting of any documents is expressly provided to be provisional, and the application for the final admissibility of the documents has to be made in open court. The Tribunal will have a report made to it by the General Secretary as to these dates and these matters. And now the Tribunal will adjourn for ten minutes.

(A recess was taken.)

THE PRESIDENT: The Tribunal have come to the conclusion that it will save time if the Defendants are called first as the first witness in the case of each Defendant; and, therefore, in the future the Defendant must be called first unless there are some exceptional reasons, in which case Defendant's Counsel may apply to the Tribunal and the Tribunal will consider those reasons for calling the Defendant in some position later than first witness.

Yes, Dr. Dix.

HANS HEINRICH LAMMERS -- Resumed.

DIRECT EXAMINATION -- Continued.

BY DR. DIX:

Q Witness, I had started to say that it had been pointed out to me that I had asked my questions too soon after you have completed your answers and that you were answering too soon after I have completed the question. I was told the interpreters couldn't follow and the stenographers couldn't either. I shall adopt a procedure by which I shall introduce a pause between question and answer, and I am asking you to do the same. I am sure that the Tribunal won't give it the interpretation that you are not sure of your answers.

Yesterday you had made detailed statements to the Tribunal regarding the various offers to resign which Schacht had presented to Hitler, and you had talked regarding several arguments referred to a peace which Schacht had raised during the war and delivered through you to Hitler or wanted to have them submitted to Hitler. We had last spoken about such a memorandum of the summer of 1941, and I had the feeling that the Tribunal had objections based on

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procedure, because I had quoted the contents of the documents which I have no longer in my hands and which were contained in the famous strong box which has been confiscated on Schacht's farm by the Red Army and which the Russian delegation had not yet succeeded in finding. I had the impression that the Tribunal had objections because I was putting the contents of the document to the witness and having him confirm it to me. Although very pretty passages are contained therein, I am perfectly willing to break off here and to put the questions to Schacht if the Tribunal would prefer that.

May I have the Tribunal's decision on that question, in which case I would cease to discuss the memorandum any further.

THE PRESIDENT: The Tribunal had no objection to your asking this witness about it, but they thought you ought not to put a leading question and that you ought to ask the witness if he remembered the document and what were the contents of the document -- not to put to him that it was such and such in the document or some other passage in the document, but just to ask him what were the contents of the document.

DR. DIX: The dividing line between leading questions and putting the content of a document to the witness--a document which is not recollected exactly by the witness--is rather fluent. Therefore, I would prefer to have the further content of the document confirmed by Schacht, which would get us over these difficulties. I shall therefore leave that point and come to another sphere.

Q (continued) Witness, you quite correctly stated yesterday in answer to a question within the framework of the defense complex of Funk, through my colleague Dr. Sauter, how in 1939 it was the practice that Hitler would simply decree that the Reichsbank would have to give such and such a credit. I want to avoid a mistaken impression, and I want the original position of the Reichsbank clarified for this Tribunal.

You know that the Reichsbank in 1939, and by decree of Hitler, lost its original independence. This was a decree in which Hitler had ordered that he would decide upon credits which the Reichsbank would have to give, and this decree of Hitler's became effective through a law of June 1939 and had the powers of a law.

I should like the Tribunal to gather a proper impression of the original

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position of the Reichsbank, and therefore I am asking you how was the situation before January, 1939, that is, during Schacht's being in office. Was it possible at that time for Hitler to decree that such and such credits were to be given, or was the Reichsbank still independent and could it refuse such credits or give notice about them?

H0105-0026

A The legal regulations which existed in this connection, I cannot recollect to such an extent that I can give you a complete answer and make a constructive statement just when and how they were altered. I can confirm one thing, however, that is, that during the period when Schacht was president of the Reichsbank, he, with reference to these credits, must have made certain difficulties for the Fuehrer. During these discussions between the Fuehrer and Schacht, I was not present but I know from statements made by the Fuehrer that regarding those credits, he, the Fuehrer, met considerable difficulties originating from Schacht. They were inhibitions on Schacht's part which in fact brought about Schacht's resignation from his position as president of the Reichsbank. On the other hand, I know that the moment that Funk became president of the Reichsbank, these difficulties ceased to exist. These were obviously removed under the laws referring to them. They had been removed also by the order which the Fuehrer had given in that connection, because when Funk became the president of the Reichsbank, these grants and credits were merely handled in such a way as I had described it yesterday. Yesterday, when I described the technical procedure, which was in the main handled in that manner, that such demands for credits for the Reichsbank were submitted to the Fuehrer and were merely a question of a signature for him, they were a matter which passed through my hands.

THE PRESIDENT: I don't think he is able to answer your question, really. I don't think he is able to answer the question which youput to him, which was as to the position before 1939, so I think you must relyupon the decrees and documents.

DR. DIX: I shall clarify it right away.

BY DR. DIX:

Q You have just stated how the thing was handled in practice in 1939, on the books. Can't you recollect that the Reichsbank had previously been independent?

A Yes, yes; I recollect that but I also recollect that certain legal alterations were made but I can't remember just when, and without seeing the

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books and laws, I can't tell you exactly what was the content of these new laws; in other words, just what the limitation was put upon figures, and all I do know is that the position of the president of the Reichsbank had later on been reduced considerably in comparison due to the orders given by the Fuehrer.

Q Yes, I see that is enough. Now, as to the same category. It isn't difficult, not anyway for a German who has lived here all that time, but particularly for a foreigner, to understand the power instrument, the power machine of the Third Reich. I think that after the statements that you had made yesterday in answer to the questions which my colleague Sauter put to you didn't produce every statement you could make. You could probably say something more of it, if I didn't know what you knew; if I were an outsider, then your statements yesterday would give me the impression: "Well, the way it was, was that the Minister of the Interior couldn't give orders to the police and the Minister of Economy didn't direct economy independently; all ministers in the Reich were without proper authority and couldn't give instruction tothe commissioners for the occupied territories."

MR. DODD: If your Honors please, I respectfully suggest that Dr. Dix is really testifying here. I think perhaps he could put his questions more simply and we can get along faster and get the answer better.

DR. DIX: Yes, I can certainly put my questions more precisely but I can't put it unless I first of all ascertain by a statement what has not yet been said up to now, so that I can't really put a briefer question since the Tribunal probably wouldn't understand it, which is what I am trying to avoid but I can assure Mr. Dodd, I shall not ask anything uncertain and I shall put a precise question indeed, and I will do it right now.

BY DR. DIX:

Q We talked about the office of the Reichsbank president but now I should like to ask you if all these ministers were so hindered and so hampered in their authority. What were and who were themen and the authorities who could interfere and who could direct these spheres of jurisdiction and who were exercising the power? That is my question. And

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may I mention that as far as Frank is concerned, you have already mentioned of course Himmler's interference, but we must go into that question more deeply so that the Tribunal can see clearly what we are talking about.

A The infringement of the spheres of the individual ministers arose because there were a number of institutions which the Fuehrer had created as a counterplay against other ministers and probably deliberately firstly; and secondly, it was due to superior authority, departments, which was to achieve a certain amount of unity in certain spheres which should be the only ones to have power. In the last category, I want to quote the most typical example, which is of course the Four Year Plan. In this connection, the Fuehrer desired a unified command which was not to depend on the wishes of individual ministers and consequently, he created the Four Year Plan. In other sectors, in somewhere or other, the minister was supplied, with, shall we say, a counterpart; for instance, the Minister for Labor had the appointment of the Commissar Dr. Ley put against him, who deprived him of certain jurisdiction.

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One of the main tasks he was relieved of was that which was now dealt with by the Plenipotentiary for Employment, Saukel, as far as employment of workers was concerned. In the economic sphere there was the Minister of Economy who was considerably limited in his powers through the appointment and powers given to the Four-Year Plan but, of course, in addition to that through the powers which had been given to the Minister for Armament and War Production. In the Ministry of Interior or the actual authority was the Chief of the German Police.

THE PRESIDENT: Dr. Dix, the Tribunal thinks that once the general aspect of the matter has been explained by this witness the matter can be explained by the defendants themselves from their particular point of view. I mean the witness is now explaining to us and probably indicating he will do it at some length, that with reference to the Four-Year Plan, for instance, there was to be a unified command which was not to be interfered with by individual ministers. That explains the general system and when it comes to the individual defendants they can explain how it applied to them, and, therefore, we do not want this dealt with at any great length or in any great detail.

DR. DIX: Ishall certainly take that into consideration and therefore only put a few more concrete questions.

I am not only anxious, your Lordship, to establish that the ministers lost certain spheres of jurisdiction. We are also concerned with the fact that third persons were interfering with the jurisdiction which belonged to him and commanded over his head and I am now asking the witness what was the position of Reichsleiter Bormann.

THE WITNESS: The Reichsleiter Bormann was the successor to Reichsminister Hess.

BY DR. DIX:

Q Be brief and talk about interference in other fields.

A He was appointed the Secretary to the Fuehrer by the Fuehrer which meant that he would be included in the sphere of the state and as Chief of the Party Chancellory he became the successor to Minister Hess, and thus represented the wishes and concepts of the Party. By being appointed to the

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position of Secretary to the Fuehrer and by a decision stating that in the sphere of the state a considerable number of things would have to go through Bormann's hands, it was thus achieved that he was included to a considerable degree into the machinery of the state, something which I had to experience personally a great deal since I, who had originally at least had an opportunity to talk to the Fuehrer alone, could no longer achieve that and could only get to the Fuehrer through Bormann. Since most of my reports were given in Bormann's presence everything that could previously be dispatched to other departments had now, even matters of state, to go through the Secretary of the Fuehrer, that is to say Bormann.

Q This meant, of course, Bormann's influence in various spheres and on reports.

A Yes, he had that influence. All those matters from various departments which did not reach the Fuehrer directly through me and which called for his immediate decision now had to be made in writing and had to go through Bormann. I would then receive a message from Bormann saying this or that is the Fuehrer's decision. In other words, the possibility of a personal report which would enable me to talk on behalf of the minister for whom I was reporting ceased. After all, they were not matters which concerned me directly; they were complaints or protests or differences of opinion which I could no longer take to the Fuehrer personally.

Q Thank you very much, that is enough.

And what you say about Bormann, does that not apply to some extent to the Gauleiters too, who also reigned or governed?

A Gauleiters, as such, had, of course, to go through the Party Chancellory, that was the prescribed channel. Since Gauleiters, as a rule, however, were simultaneously in one person town governors or supreme presidents, those positions were, of course, somewhat mixed up and a number of matters instead of going through the prescribed channels went through the minister concerned and through me, coming directly from the Gauleiter and going directly to the Reichsleiter Bormann. There are, in fact, cases where this channel had been chosen deliberatly.

Q Thank you very much.

H0105-0031

Now, regarding the position of Himmler in the same respect, this new power, you have made statements yesterday referring to cases of Frank and Frick. Cannot that statement be extended in fact to all leading officials, explained by an increased power given to Himmler and the SS and his police?

A I did not quite understand you.

Q You mean to say you did not quite hear?

A I did not get the question completely.

Q In other words, interference into spheres of influence. Now, you have talked about Bormann and you have talked about Gauleiters. Yesterday you talked about Himmler and you dealt with the police and the SS with reference to the cases Frick and Frank and I am now asking you whether this increasin power on Himmler's part and on the part of the SS, if that did not affect the other spheres of influence just as much?

A To a considerable extent and in various sectors.

Q That exhausts that question.

I am now coming back to Schacht. We have talked about the offers to resign and we now come to the actual dismissal. Were ministers who were to be released usually given a letter of dismissal by Hitler?

A Yes.

Q That letter, I assume, was drafted by you and discussed with Hitler?

A Yes.

Q As far as the wording of the letter on the occasion of that dismissal is concerned, was considerable attention paid by you to the wording or rather by Hitler.

A Hitler would look at them carefully and he frequently made alterations or improvements personally.

DR. DIX: The two letters of resignation, Mr. President, which decree Schacht's dismissal from his job as President of the Reichsbank and Minister Without Portfolio are included in my document book as evidence and I do not propose to put them to the witness. There are only two sentences I propose to quote.

BY DR. DIX:

Q In the letter of dismissal from Hitler To Schacht on the occasion

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Q of his dismissal from his position as President of the Reichsbank it says:

"Your name particularly will always be connected with the first period of national rearmament."

Schacht considered that there was a certain deliberation attached to that sentence. He thought there was a limitation of the praise he was getting. What is your view, you who was the originator of that letter?

A As far as I can recollect I drafted the letter and the way I said it was generally an expression of thanks was being made to Schacht and this additional sentence is due to a personal alteration by the Fuehrer as far as I can recollect because that was not my cup of tea to make such a subtle difference here.

Q In a later letter of dismissal of January 23, 1941, it says-- this incidentally is not signed by Hitler but is signed by you by order of the Fuehrer:

"The Fuehrer, with regard to your general attitude in this present fateful struggle of the German people has decided to temprarily relieve you of your position as minister."

In other words, Schacht's feelings regarding his personal safety could not have been exactly pleasant when he saw that sentence. May I ask you, therefore, whether this letter was drafted by Hitler and was Schacht's anxiety unjustified?

A The reasons that caused the Fuehrer to dismiss Schacht are only partly known to me. All I know is that a letter from Schacht to Reichsmarshal Goering was the cause of the Fuehrer's dismissing Schacht from his position. The reasons were communicated to me by the Fuehrer. He was very violent and at that session and his general attitude was such that he wanted even more severe expressions to be used but I put it in the way in which you find it in this letter as I thought that was fairly tolerable.

Any further measures that may have been intended against Schact the Fuehrer did not tell me about, of course. But to begin with he had certainly ordered me to use the word"Temporarily."

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Q Originally I had intended to ask you, as thebest expert on these points, in detail regarding the gradual development of the years 1933 until the autocracy of Hitler's had been achieved. The answers which you have given to my colleagues yesterday have in the main dealt with my questions and I don't want to repeat them, but two questions I would like to use to clarify the position. The law giving powers, which was issued in '33, which is the law which deprived the Reichstag of its powers instituted a dictatorship. On that law I am asking you: Did this law give the powers to Hitler or the Reich Cabinet or the Government?

A This authoritative gave powers to draft law and alter the Constitution to the Reich Government, and the Reich Government in turn used this power to alter the Constitution, both expressedly as well as silently, by creating the Law of Habit which --

Q Yes, thank you very much. You said that yesterday. Thank you very much, witness; we don't want to go into that again. Yesterday you pointed out in parenthesis that this Reich Government didn't necessarily consist of National Socialist only, but that its majority belonged to other parties. You only mentioned the German National Party, led by Hugenberg, Dr. Mueller and Dortmund, and you mentioned the Stahlhelm (steel helmet), the head of which was Seldte, but you had forgotten--and that is why I am asking you--to quote the Central Party. Is it true that von Papen came from the Central Party?

A Yes, of course, that applies, naturally, but I don't know whether von Papen was a member of the Central Party or not.

Q In my opinion you are talking rather scientifically of the Law of Habit of the State. I am going to give it a different name, but let's not discuss it. All I want you to tell me is whether during that gradual development to complete dictatorship there were actual laws; what they were, and what their significance was.

Don't you consider the law after Hindenburg's death, which was altering the status of the Reich President as the position of the Chancellor, and had the consequence that the bearer of that position was also the supreme military leader--don't you consider that law as a further milestone in that gradual development?

A That law was one of the most important milestones of that gradual development, particularly because it happened after the decree through the Reich

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Government, referring to a plebiscite which produced the result of nearly one hundred per cent and had been confirmed.

Q And further laws did not appear in connection with the development?

A No, I don't recollect any.

Q Neither can I. And the other question is whether you can call the Law of Habit of the state and whether you can--that is a question I don't want to raise with you at the moment. I think we are of different opinion in that connection.

DR. DIX: Your Lordship, I have now finished my questions to the witness Lammers on behalf of my client, but my colleague Kubuschok is away on duty. I don't think the aeroplane took off yesterday; so I don't think he has been able to get back. He has asked me to ask questions on behalf of von Papen, and I was going to ask the Tribunal whether I could put them--there's really only one short question--and whether I ought to ask it now or whether I should wait until Papen's defense comes up in its proper time.

THE PRESIDENT: No, now, because this witness will not be called again except for some very exceptional reason.

DR. DIX: No, I didn't mean that. I meant, did you want me to ask the question later today, when the turn of Papen comes in the proper sequence of defendants?

THE PRESIDENT: You may go on now. I think you better ask it now.

BY DR. DIX:

Q Please will you remember the Roehm Putsch, the Ruhr revolt. Papen's experiences during that revolt will be discussed later. But do you remember that von Papen, who was Vice Chancellor at the time, on the 3rd of June, 1934, demanded to be dismissed by Hitler and received the dismissal?

A Yes, but I can't tell you for certain whether the date was right, but it happened right about that time.

Q Do you also remember whether some time afterwards, probably only a few days afterwards, between the 7th and the 10th of July, you by order of Hitler went to see von Papen and asked him whether he was prepared to accept the position of an ambassador to the Vatican?

A I can remember that I visited von Papen, yes, and that by request of the Fuehrer I was to tell him that he had to expect to be used further, and that

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in that connection an employment as ambassador to the Holy See was thought of. But, whether I had had orders to tell him immediately that such an offer was being made, that I cannot recollect now.

Q Can you remember what Papen replied as to what his views were?

A At that time he wasn't very much inclined to accept such a position.

Q Thank you very much. I have no further questions.

DR. SERVATIUS: Dr. Servatius, for Defendant Sauckel and the organization of the political leader of staff.

BY DR. SERVATIUS:

Q Witness, on the 21st of March, 1942, Sauckel was appointed Plenipotentiary for Labor. What were the reasons that Sauckel was chosen for that position?

A The Fuehrer was of the opinion that the labor problems could no longer be handled by the Minister of Labor with the necessary care, and that this task would, therefore, have to be transferred to a particularly energetic person.

Q Did the Fuehrer demand the use of foreign laborers with particular emphasis?

A He demanded that all laborers should be used who could possibly be found.

Q Particularly with reference to foreign laborers?

A Yes, that was mentioned in that connection, of course, because in the country we had exhausted all possibilities.

Q Did you receive the task of informing the leading service departments in the occupied territories and tell them that they should support Sauckel's task in detail?

A That happened very much later. To begin with, the employment of the general plenipotentiary for employment of labor took place and that was announced. It was announced to all authorities and departments concerned. I don't think any particular request was added to that by me. But, at the beginning of 1944, a conference took place at the Fuehrer's office dealing with the program of labor employment for the year of 1944. At the end of that conference, during which Sauckel had been given such figures, I had the task to write to all departments concerned and tell them that they should support Sauckel's task, the task he had just been given; that they should support it with all the strength at their disposal.

Q You are talking about a meeting at the beginning of January, 1944. An extensive record about that is available which you have prepared. According to this record, Sauckel has said during that meeting that he would find it difficult to fulfil the demands or probably wouldn't be able to fulfil them at all. That's with reference to foreign workers. What was the reason he stated for that?

A The statement is correct, and the reason he gave was that the essential executive powers necessary for the carrying out of that task were lacking in the various sectors. He said that if he were to fulfil his task, then he would most of all not be depending on an executive party abroad as, for instance, was the case in connection with France; but that there would have to be a German executive power which would support his actions.

Q Didn't he talk about the fact that the fulfilment of the demand was impossible because of partisans and bandits?

A He pointed out these difficulties repeatedly. He referred to partisans and bandits and it was, of course, regarded as a matter of course, that any recruitment for labor could be carried out by him in such territories where partisan battles were still going on.

Q Did he demand the pacification of these territories and demand executive powers in that connection?

A Yes, that's correct.

Q Did he wish to have the protection of the authorities against these resistance movements?

A Yes, he wanted that the local departments should take action so that he would have a free hand and be free to work.

Q I am quoting one sentence from that record, and I want you to explain to me how that is to be understood. Here is says:

"The Reich leader of the SS explained that the executive forces at his disposal all were extremely small, but that he would try to increase them extensively so as to ascertain success for Sauckel's actions."

How is that to be understood?

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A That mostly referred to the Russian territories, in which Partisans were active, and Sauckel thought that without a cleaning up of these territories he wouldn't be able to become active. Himmler, who was present, agreed that he would do his best, but he had certain objections, whether the existing police battalions or other police forces would be at his disposal for the purpose.

Q Then it is right to say that this is a question of the safeguarding of the authorities and the security in the territories, but that this is not a transfer of the powers to the SS?

A A transfer of these powers to the SS was actually not proposed. The German executive body which was demanded by Sauckel meant in every case that the executive authority which was in position already should be used, as in France, for instance, where there were field commanders who had to look after that, and in Russia it had to be looked after by the police battalions who had to take care of Partisans.

Q Now, I have a question as to the political leadership staff. A document has been presented here which has been submitted with a number, D-728. It bears the signature of Gauleiter Sprenger. It hasn't a date on it, but it appears that it came out in the spring or the beginning of 1945. In this letter there is mention of a new Reich Health Law, and it is supposed to contain instructions regarding pneumonia victims and people suffering from heart diseases, who are supposed to be removed. It says that this law is to be kept a secret, and on the strength of that law these families would no longer be allowed to remain amongst the public and were not allowed to produce any heirs. Did you know anything about that law?

A I don't understand the words. Did you say insane or what?

Q It is Reich Health Law referring to pneumonia patients, people suffering from heart diseases.

A I know nothing whatsoever about that law.

Q Ought it to have been known to you?

A Yes, actually it should have been known to the Minister of the Interior. Health matters were dealt with by him. It never reached me, though.

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DR. SERVATIUS: I have no further questions.

BY DR. STEINBAUER (Counsel for Defendant Seyss-Inquart):

Q One day after the German troops marched into Austria a law was published -- on the 13th of March, 1938, which has the heading, "Law for the Reunion of Austria with the German Reich." Seyss-Inquart and his Government were surprised by this law, and I am now asking you whether you know anything detailed regarding the problem how it was possible on the 13th of March, 1938, that this law could appear.

A The march of German troops into Austria I learned like every other radio listener, through the radio. And since I assumed that I might be needed I went to Vienna and at that point the law had already been completed. It had been signed and it had been published. I did not participate in the drafting, but the Minister of the Interior and Secretary of State, Stuckhardt, very probably drafted that law. I myself did not in any way cooperate in its creation. I didn't even know the action as such was to take place.

Q Did these gentlemen you just mentioned tell you perhaps why this law was produced so suddenly, so horridly?

A It was the wish of the Fuehrer.

Q Thank you. At the same time Dr. Seyss-Inquart was promoted SS Obergruppenfuehrer, not as the Prosecution has stated, SS General, and apart from that the Fuehrer promised him that within one year he would be made a member of the Reich Government. It is a fact that in 1939 he actually became Minister without Portfolio. Did Seyss-Inquart in his capacity as an SS Obergruppenfuehrer and as Minister without Portfolio carry out any functions of any kind?

A As far as I know, Seyss-Inquart didn't become Obergruppenfuehrer but Gruppenfuehrer. That was an honorary rank which was given him. He had no powers to issue orders and he never served in the SS, as far as I know. He merely wore the uniform, and later on he was promoted Obergruppenfuehrer. In other words, this was entirely a question of uniform; it was an honorary rank.

Q Thank you. One year later Seyss-Inquart was appointed Reich Commissioner for the Netherlands and in the Law Gazette for the Netherlands

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this appointment was published together with a Reich Law Gazette. Do you know whether apart from those published decrees from Hitler which made him Reich Town Governor when he wasn't given a task within the framework of the four-year plan?

A At the moment of his appointment as Reich Commissioner for the Netherlands Seyss-Inquart suffered under the same limitations which I described yesterday in connection with Frank and Rosenberg. In other words, there was a certain limitaton that said that the Plenipotentiary for the Four Year Plan could exercise his powers which he had everywhere else, that is to say, his position was limited from the wording.

Q What was the position of the German Police in the Netherlands? Was the German Police under the direct orders of the Defendant Seyss-Inquart or was it under the Reich Leader SS Himmler?

A The conditions here are exactly the same as I described them yesterday for the Government General. The higher SS and Police leader was at the disposal of the Reich Commissioner but his actual functions came from Himmler.

Q Thank you. Do you, Witness, recollect that you at the beginning of 1944 told the Defendant, who was then Reich Commissioner for the Netherlands, of an order from the Fuehrer ordering him to supply from the Netherlands 250,000 workers? And can you remember that Seyss-Inquart refused?

A This is the letter which I had previously mentioned when I was being asked questions in connection with Sauckel. It is a circular letter which asked everybody to support Sauckel's actions and individual departments were given demands regarding the figures of the workers they were to supply. Whether that was 250,000 workers, in connection with Seyss-Inquart's case, that I cannot remember; I don't know. But I do know that Seyss-Inquart expressed himself against the raising of that figure of 250,000 and had considerable qualms. He asked me to take that to the Fuehrer.

DR. STEINBAUER: Thank you. I have no further questions.

H0105 - 0040

BY DR. LATERNSER (Counsel for General Staff and OKW):

Q Witness, in 1933 did Hitler come to power with the help of the Armed Forces? Was there any military pressure employed in that connection?

A I myself didn't participate immediately in the seizure of power. I can't tell you, therefore, with absolute certainty. At any rate, nothing is known to me that the Reichswehr -- the Armed Forces -- at that time had any influence upon the seizure of power. I assume that if it had been the case one would have heard about it.

Q In 1934 the coordination of the position of head of the State and Chancellor took place, which was unified in Hitler's person. Could military leaders have refused to swear an oath of allegiance to Hitler? Would this be a constitutional crime?

A The law regarding the head of the State appeared in accordance with the constitution and this made the Fuehrer the Supreme Commander of the Armed Forces, and any possibility to resist -- that would have been impossible; it would have been a revolt; it would have been mutiny.

Q Did you ever hear that military leaders made proposals regarding the starting of an aggressive war?

A No, not the least.

Q It is well known that Hitler did not permit military leaders to exercise any influence upon his political decisions. Did you know of any statement made by Hitler by which he deprived Generals of the right to participate in political judgments?

A The Fuehrer has talked about the personalities of the Generals, and individual Generals. He has praised them from the military point of view. As far as politics were concerned, he was always of the opinion that they knew nothing about politics and that one should keep them away from a position where political matters had to be decided.

Q It is also known that Hitler wouldn't suffer anybody to contradict him. Wasn't the deeper reason for Blomberg's dismissal and the dismissal of Fritsch and Beck the fact that they repeatedly contradicted him?

H0105-0041

A. Well, I did assume that the personal differences did have their effect of causing the dismissal of Schacht, Blomberg, Von Neurath and Fritsch. But I have never been present at such conferences and I cannot make any statements but I do think that they often contradicted the Fuehrer.

Q. Did Hitler have distrust for the Generals, particularly those of the Army?

A. You cannot answer that in general. The Fuehrer had a certain amount of distrust for most people. He only told them what actually applied to them. If you call that distrust, so far as all the generals were concerned, nobody was told any more than he had to hear.

Q. Amongst the circle of persons who had Hitler's unrestrained confidence, was there a military leader among them?

A. I do not belive so. I don't know of one.

Q. I have now got one last question. What was the reason that the bulk of the occupied territories were under Reich commissions and only a few under military leaders?

A. As a rule it was the Fuehrer's wish that occupied territories be administered by political leaders. He considered generals unsuited for that particular job because he considered that they had no political instinct.

Q. Wasn't it, even before 1944, wasn't it the plan that the military administration in Belgium was to have a civilian commissioner?

A. That had been proposed at length but before it was put into action the Fuehrer did not desire to make it so since he had always been told that in the case of Belgium there were military administrators and if civilian administration began it might become occupied territory again.

DR. LATERNSER: Thank you very much. I have no further questions.

THE PRESIDENT: Do the Prosecution wish to cross examine?

CROSS EXAMINATION

BY MAJOR ELWYN JONES:

Q. Witness, there is one matter upon which I want to ask you, as to the pow r of Reichministers under the Constitution of Nazi Germany. It appears, from your testimony, that there were men with very little authority or

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jurisdiction or power of command of any kind. That they were made of straw. Is that so?

A. Well, no authority . . .

Q. But, they were of an extremely limited character. ThatIs what you are saying to the Tribunal, isn't it?

A. Generally speaking, they were administrative chiefs. They were not political ministers who, in large scale political matters, took an active part.

Q. Less authority than the authorities of Germany had under the previous Constitution?

A ..That no doubt was the case. Under the previous Constitution there was an election amongst the Ministers, and they had the power of voting out any members of the Cabinet which they didn't like.

Q. I am not going to put to you some observations which you yourself made in 1938 about the powers of administration under the Fuehrer's State. I am referring to document 3863-PS.

"Out of this total basic concentration of power of authority in the person of the Fuehrer, however, no excessively strong and unnecessary centralization of administration in the hadn of the Fuehrer results in the governmental administration. In my general elaborations on the basic concept of the Fuehrer state I have already pointed out that the subordinate leader's (Unterfuehrer) authority, directed downward, forbids interference with every individual order he may issue. This principle is manipulated by the Fuehrer in his government leadership in such a manner that for example the position of the Reich ministers is actually much more independent today than formerly, even though today the Reich ministers are subordinated to the Fuehrer's unlimited power of command in their entire official sphere, even in every individual measure and decision in the most trivial matters. Willingness to bear responsibility, ability to make decisions, aggressive energy, and real authority -- these are the qualities which the Fuehrer demands primarily of his subordinate leaders. Therefore he allows them the greatest freedom in the execution of their affairs and in the manner in which they fulfill their tasks.

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Nothing is more foreign to him than narrow or fault-finding criticism."

That is a picture of the power of Reichministers, which is very different from the picture you are painting for the Tribunal, is it not?

A. In my opinion, there isn't the least contradiction. All I am saying here is that every Minister did not have unlimited power in large scale political matters, but that he, as supreme commander in his own sphere, had complete authority, and that the Fuehrer wasn't going to be small-minded about such authority. That was right. Here in this document we are concerned with second rate matters.

Q. You say your picture, of course, is a picture of one man decisions of intensive power. Is that the picture you are trying to present to the Tribunal?

A. Yes. The Ministers, who as supreme commanders, supreme leaders in their own sphere, had power in these matters unless he was restricted. He had no more power than any other Ministers, because his power was only concentrated in small matters.

Q. In the case of the Defendant Funk, for instance. You way he was a Minister of small authority?

A. Regarding the big political decisions he had no authority.

Q. But decisions -- but as to important economic questions like the amount of wealth he was going to take from the occupied territories, the Fuehrer's decisions were based upon recommendations of Ministers like Funk, weren't they?

A. Not that I know of. The policy on occupied territories was handled by the Eastern Ministers and Reich Ministers.

Q. But as to decisions on economic matters concerning the occupied territories, as to recommendations of occupational costs, and as to the extent of black market operations, men like Funk were indispensable and were asked to give their recommendations, did they not?

A. He cooperated, yes, but he did not work with the Reich commission in occupied territories.

Q. All these ministers were indispensable to the running of the Nazi State, were they not?

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A. Yes, of course, they were necessary for their cooperation. This does not mean that Funk had authority.

Q. Do you, so far as you are concerned, recall whether Funk was directly subordinate to the Fuehrer or not. Do you remember that?

A. Well, Funk was under the Fuehrer, working as a Minister.

H0105-0045

Q And he was advising the Fuehrer himself, was he not?

A He very rarely went to see the Fuehrer.

Q But he, in the vital sphere of the financing of rearmament-- he had important decisions to communicate to the Fuehrer and advise the Fuehrer upon, did he not?

A I don't know to what extent the Fuehrer sent for him and I was not present during any conference regarding armament and rearmament.

Q I shall ask one further question regarding ministerial matters. Ministers without portfolio did continue to receive communications as to the Reich cabinet, did they not?

A They received all communcations, yes.

Q The Defendant Frank, for instance, was a minister without portfolio?

A Yes.

Q He continued to receive communications in his capacity as a Minister without portfolio?

A He received all communications which were received by other ministers.

Q And when he was the Govenor General of the Government General, he maintained a ministerial office to deal with incoming matters of the Reich Cabinet?

A Who are you talking about, Frank?

Q I am now talking about the Defendant Frank, yes.

A Frank had an office in Berlin where ministerial matters were directed to him.

Q So that the Reich Cabinet did not actually meet, but it continued to exist, did it not?

A The Reich Cabinet only existed for the written procedure of its laws. Or, of course, written administrative matters.

Q And the ministers of the Reich Cabinet, like Frank, continued to receive communications as to the legislative tasks and performances of the Reich Cabinet, even though they were not available for conferences or meetings?

A They got -- he got everthing that other ministers received, yes.

MAJOR ELWYN JONES: I think it's time to break off.

THE PRESIDENT: Yes.

(The Tribunal adjourned until 1400 hours.)

Here

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Official Transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm et al, Defendants, sitting at Nurnberg, Germany, on 9April 1946, 1400-1700
Lord Justice Lawrence presiding.

HANS HEINRICH LAMMERS-- Resumed

CROSS- EXAMINATION -- Continued

BY MR. ELWYN JONES:

Q Witness, I want to ask you some questions about the Defendant Frank. Frank is a friend of yours, is he not?

A Nothing is coming through. Will you please repeat the question?

Q The defendant Frank is a friend of yours, is he not?

A Frank?

Q Yes.

A No, I am not especially close to Frank.

Before answering this question, I would like your permission to return to a document which was submitted just a little while ago this morning, and which I have just now been able to finish reading. I would like to say just two sentences in connection with that document.

Q If the counsel for the defense desire you to return to it, I have no doubt they will draw your attention to the matter in due course.

Will you now deal with the question that I put to you on the Defendant Frank? You say he is not a friend of yours?

A I did not know him especially well, and I was no closer to him than any of the other people in the Reich Government.

Q Would it be correct to say, like yourself, he was one of the leading Nazi jurists?

A Yes, but I never considered myself a leading National Socialist jurist.

Q Are you saying that you were not a leading jurist, or that you were not a National socialist?

A I considered myself as an expert on state law, which I have for many years in fact, since the year 1920 , and I served other governments before joining the National Socialist Party. Naturally, in my capacity or in my position in the National Socialist State, I made every effort to represent National Socialist idea

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Q And you have said that so far as Hans Frank was concerned, he was a jurist who opposed the arbituary use of power by the police.

A He did that in some of his speeches. These speeches were disapproved by the Fuehrer.

Q He was a man who believed in fair trials, was he?

A What kind of proceedings are you referring to?

Q Criminal trials.

A He was always for the right; but I did not quite understand what you were saying. I did not quite get it. If you mean fair, yes.

Q He was in favor of fair trials and he resisted the arbituary power of the SS? That is your evidence, is it?

A He repeatedly stated these matters to me, yes, and expressed himself in that respect in speeches too.

Q And you say he was a man who favored a liberal administration in the territory of which he was Governor General? Is that so?

A I am sorry, but I can't follow this; there is so much static that I can only gather half of what you are saying; the other half escapes me completely.

Q Well, we will try again. Did you ever hear of the AB Action, for which Frank was responsible in the Government General?

A That is an action which was totally unknown to me. About a week ago a gentleman mentioned this term to me, that Frank was accused of this AB action, However, I don't know what this AB action is.

Q You were getting frequent reports from Frank as to the administration of his territory, were you not?

A On occasion, yes, now and then.

Q Are you saying that Frank never informed you about the AB action?

A Yes, I don't know what the AB action is.

Q I will remind you. It was an action which resulted in the slaughter of the flower of the Polish race, of the Polish intelligentsia.

A I know nothing of such an action.

Q If you will look at Exhibit 2233-PS, which has already been exhibited as USSr-223, and which is Frank's diary, you will see the history of this action and perhaps you will then remember something of the circumstances of it.

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A At which page is that, please?

Q On page 8 of the annex to that text. You will see on that page that the action started on the 16th of May with a conference at which Frank, the Govenor General, Secretary of State Buehler, SS Brigadier Streckenbach, and a Colonel Mueller were present. You will see there that Frank decreed, with immediate effect, that the task of carrying out an extraordinary pacification program be given to the Chief of the Security Police, to commence immediately. The more important details of the action were then discussed, and Brigadier Streclenbach was formally given the necessary authority by the Govenor General. The Governor General then ordered a detailed report to be made on the 30th of May.

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Then, I want you to look at page 2 of that text, at a report of the conference on the 30th of May, where you, and, what is more important, this Tribunal, may be able to judge what kind of jurisprudence Nazi jurists believed in.

You will see, on page 43 of the English text of 2233-PS, a report of the police conference on the 30th of May, where Frank and Krueger and others were present.

A. I was never present at these conferences.

Q. I want you to see how far removed Frank, the apostle of decency in administration, was from the true Frank that was Governor General of Poland. You will see there that Frank states: "If I had not the old Nazi guard of fighters of the Police and SS, with whom could we then carry out this policy?"

The report, which the Tribunal is already familiar with, goes on to describe how, now that the German aggressions in the West were in full swing, it was possible for Frank to go through with this action against the Polish intelligentsia.

A. If the Governor General contradicts what I gathered from his phblic speeches and what I gathered contrary to that, I cannot utter a view, because I do not know what he waid. It may be that many of his speeches are in contradiction to speeches which he gave at other times. I was just concerned in testifying to those speeches which the Fuehrer disapproved of, which he objected to, and which had as a consequence that he was prohibited from speaking. I was concerned with those speeches. If the Governor General made other speeches and made notes in his diary, I cannot tell you about that, and especially at this moment.

Q. Let us be quite clear. Do you know that the regime of Frank in the Government General was a murderous one?

A. I never had nay knowledge of anything like that.

Q. Did you receive any reports from him, or from some other source, of misgovernment in the Government General?

A. As far as misgovernment in the Governor-Generalship is concerned, yes, there were complaints on the part of Frank, and by other parties against Frank.

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Q. Did you have knowledge of the utter ruthlessness of Frank's methods in the Government General?

A. I only understood half of your question, I am sorry.

Q. You were receiving reports from Frank as to what he was doing in the Government General, were you not?

A. Yes. Reports came in repeatedly, which I hurriedly passed on to the Fuehrer; I just passed them. In most cases they went to Bormann or the adjutant office of the Fuehrer. There were reports --

Q. Just a moment. If you deal with the questions I put to you, we shall get on much faster, you know. Just answer the questions I put, briefly. I am going to put to you one message which Frank's diary indicated that you received.

At page 41 of the English text of Frank's diary there is this entry for the 5th of August:

"The Governor General sends the following teletype to Reich Minister Dr. Lammers:

"The City of Warsaw is, for the most part, in flames. The burning down of houses is the surest way of getting the insurgents out of their holes. After this insurrection and its crushing, Warsaw will rightfully suffer or be subjected to its deserved fate of being completely annihiliated."

Do you recollect receiving that teletype?

A. To my knowledge this report did come in, and it was given over to the Fuehrer immediately. However, I personally was not concerned with the action; that was a military measure and in the normal course of events the military reports came to the Fuehrer directly. In all probability I passed this teletype message on not only to the Fuehrer, but to the Chief of the OKW.

Q. I am not concerned with the action which you took in these circumstances; I am concerned with your knowledge, because you have denied to this Tribunal, time and time again, that you ever knew anything of these abominations that were going on under the Nazi regime. So just deal with the question of your knowledge at the moment.

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You have said --

A. I know that this report was received.

Q. And that was a characteristic Frank message, was it not?

A. It was that an annihiliation action had been decreed in Warsaw and that there was fighting going on in Warsaw. However, I could not give any decrees or instructions to the Governor General. The report was meant for the Fuehrer and not for me personally.

Q. You say that Frank was opposed to the institution of concentration camps. That is your evidence, is it not? Is it your evidence that Frank was opposed to concentration camps?

A. Yes. Frank told me, in a general way, that he was against interning in concentration camps, for he agreed with me in my view that such proceedings would at least have to have a basis in law.

Q. That is what he told you?

A. Yes, he told me that. Yes.

Q. Just let me read to you one brief extract from his diary to show why he disapproved of concentration camps. I am reading from page 45 of the diary. He is referring to the Polish intelligentsia, and he says:

"We do not need to deport these elements to the concentration camps in the Reich, first, because we should only have bothers and unnecessary correspondence with their families." Then: "Instead, we shall liquidate things in the country itself."

Then he goes on to say this: "There will be no concentration camps in the real sense in the Government General. What prisoners from the Government General there are in the concentration camps in the Reich must be put at our disposal for the AB Action, or dealt with there. Whoever is suspect in our part of the world is to be liquidated immediately."

That is why Frank opposed the institution of concentration camps. He believed in immediate murder, did he not?

A. It may be that the diary of Frank and his actions do not agree with what he told me, but I can only testify to what he told me in his opinion of concentration camps. What he said in his diary I do not know, and how he

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acted in practice I do not know either, because I was not to supervise the Governor General.

H0105-0053

Q. You have spoken of the battle between Frank and various other Reich commissars and Reich ministers and the SS. I suggest to you that the battle between Frank and the SS Brigadier Krueger was a battle for power, a battle between personalities, and was not connected in any way with Frank's desire to see decency and justice determine the administration of the Government General.

A. If you mean that, that is not in accord with what Frank told me and how he acted. You must question Mr. Frank about that, for I am not responsible for what he did; in fact, I can only testify as to what he told me.

Q. You see, you were receiving reports not only from Frank himself but from the SS, were you not?

A. Reports of many kinds came to me and they were passed on in a routine manner, for which I was just a passing through and transmission center. Reports from the SS did in most cases not go through my office.

Q. You are another of these highly placed post offices on which the Nazi Reich were founded, were you?

A. I am sorry; I don't follow you.

Q. Do you remember communicating with Himmler about the situation in the Government General?

A. Yes. I know that Himmler wanted to remove Frank from the Government General. He would rather have had a different Governor General in that position.

Q. You submitted a report to Himmler on the strength of a discussion you had had with SS Lieutenant General Krueger, did you not?

A. At the moment I cannot recall a discussion with General Krueger.

Q. Will you just look at the document 2220-PS, which will be Exhibit GD 321. That is your report to Himmler. You will see that that report is dated the 17th of April, 1943, addressed to Himmler, reference the situation in the Government General. I just read some of it; it has not been read before:

"Dear Mr. Reich Leader:

"We had agreed at our conference on March 27th of this year that written texts should be worked out about the situation in the Government

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General on which our intended mutual report to the Fuehrer could be based." That was the mutual report of the SS and yourself, and then the next paragraph reads: "The material --

A That was on the basis of instructions from the Fuehrer that certain complaints against Frank would be investigated by me. A series of complaints had been entered against Frank, and the Fuehrer had given instructions that Himmler and I should investigate the matter. That is the matter we are concerned with now.

Q And you with your colleague, Himmler, you see, were actively interested in this matter. I just want you to look further at this report. You will see that in the report itself it is headed, in paragraph A:

"The task of the German administration in the Government General:

"The German administration in the Government General has to fulfill the following tasks:

"1. For the purpose of securing food for the German people, to increase agricultural production and utilize to the fullest extent, to allow sufficient rationsto the native pupulation occupied with work essential for the war effort, and to deliver the rest to the armed forces and the homeland."

Then it goes on to deal with the difficulties of extracting sufficient manpower and wealth from the territory of the Government General for the benefit of the Third Reich. And then towards the end it deals specifically with the utilization of manpower, and it is to that paragraph that I desire to draw your particular attention. Have you found the paragraph headed "utilization of manpower", dealing with the difficulties that the administration in the Government General was confronted with? I draw your attention to it because it contains the sentence: "It is clear that these difficulties have been increased by the elimination of Jewish manpower."

A And where is that, please?

Q It is in the paragraph headed "Utilization of manpower."

A But that is not my report; that is not a report of mine.

Q But you said that in your covering letter that the memorandum

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was checked with General Krueger, who agrees with it in full. You recollect in your covering letter you indicated that this memorandum had received your consideration. Now, whether you wrote that or not is not the matter that I am concerned with at the moment. What I want you to explain to the Tribunal is, first of all, did you appreciate that this report contained the sentence "It is clear that these difficulties of manpower have been increased by the elimination of Jewish manpower,"?

A May I please read this document first? I cannot reply to documents which are pages long unless I have read them. I find it quite impossible, and I ask for the time to read this report.

. . You have the time required; but I only want you to concern yourself with one sentence, you see. You can take it that in the last paragraph but one of thatreport there appears this sentence about the elimination of Jewish manpower, and what I am going to suggest to you is that --

A I am sorry; I haven't read this sentence. I haven't found the place. Where can I find it? Is it at the top or at the bottom of the page? If I am to read the whole page in order to find the sentence, I will need a few minutes. Can you indicate the approximate location for me? Krueger is reporting this, and he probably means the further evacuation of the Jews to the East. I do not mean what he means, and I am not in the position to tell you about one sentence which is torn out of the content of fourteen pages.

Are you saying that elimination of Jewish manpower is to be translated as emigration of Jewish manpower?

A That I do not know. I will have to read the complete document before I can give you any testimony on it. There are fourteen closely written pages, and I do not know what the continuity is.

H0105 - 0056

Q You know, do you not, that Hans Frank himself was in favour of a policy of extermination of the Jewish people?

A Whether he had this view or did not have it I cannot tell you. He told me the exact opposite of that view, and as a witness I can only tell you what he told me and not what he said somewhere else.

Q You see, this Tribunal has had read to it extracts from Frank's diary in which he says that my attitude towards the Jews -- and this is found at page 12 of the German copy -- my attitude towards the Jews will be based only on the expectation that they should disappear. And he says, as to the three and a half million Jews in the Government General, that he can't shoot them or poison them, but will nevertheless be able to intervene in ways which will lead in some way to successful annihilation. The Government General must become as free of Jews as the Reich is.

Are you saying that Frank didn't express similar views to you?

A If Frank in his diary made these entries, and if he actually did say it, then it is contrary to what he told me; and that is all I can say on that point.

Q Did you know that Frank's diary inidcates that on the 9th of September 1941, there were three and a half million Jews in the Government General and when he makes an entry on the 2nd of August 1943, he says that only a few labor compandies are left? Did you not know that?

A That it actually happened, that I don't know. He never told me about that and I knew nothing of the particulars. What he said in his diary he must be held responsible for. Whether he did it or not, that must be testified to by him. But at any rate I never knew anything about these things.

Q In view of your translation of elimination as emigration, Frank says in connection with those millions that this Tribunal knows were murdered: All the others have, let us say, emigrated. Are you using the word "emigrated" in an equally cynical and brutal sense as that ?

A I am not in a position to comment on the entries in his diary. Mr. Frank himself will have to do that.

Q You, witness, were from the beginning of this tale of terror involved in assisting in drafting legislation towards achieving the end of racial perse-

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cution, were you not? Is that not so? Did you not put your signature on the Fuehrer decree empowering Himmler to carry out the necessary measures to eliminate from the territory of the Reich racial elements that you as Nazi did not approve?

A I do not recall that I ever signed anything like that.

Q Well, I will draw your attention to it. It is document 686-PS, which is GB 322. It is the decree of Hitler to strengthen German folkdom. That is the tittle of it. It is dated the 7th of October.

A I know of the decree

Q I thought it would not surprise you.

A It does not concern this matter, It does not say anything about that.

Q Just look at the first clause of it. It reads:

"The Reichsfuehrer SS has the obligation in accordance with my directives to bring back for final return into the Reich all German nationals and recial Germans in the foreign countries.

Paragraph 2:

"To eliminate the harmful influence of such alien parts of the population which represent a danger to the Reich and German folk community."

Then it goes on with resettlement of new German settlements, and it says that the Reichsfuehrer SS is authorized to take necessary measures to execute his obligation.

You signed that decree, did you not?

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A It is correct. It doesn't say that Jews are to be killed. We were concerned with the elimination of a detrimental element. We are not concerned here with the elimination of foreign elements, merely with the detrimental influence of certain elements of the population;to renove the influence of people does not mean that the person himself is to be removed.

Q Are you, as the head of the Reichschancellery, the man who knew all the secrets of the Third Reich, saying to this Tribunal that you had no knowledge of the murder of millions and millions who were murdered under the Nazi regime?

A I will say that I did not know up until the moment of thetime of collapse, that is, the end of April and the beginning of May; through foreign radio I received these reports but at that time, I did not believe these reports and later on, here, through the papers, I received further material about that but as far as the elimination of a detrimental influence is concerned, that does not mean the annihilation; not with one word did the Fuehrer talk about murdering, not with one word was a plan like that ever considered.

Q I now want you to turn your attention to the defendant Rosenberg. You have told us that the first you heard of several of the major military operations of the Third Reich, was through the newspapers. Was it from the newspapers that you heard of the Nazi plans to invade the Soviet Union?

A I learned that, as far as aggressive action against Russia is concerned, after the action had been completed. Before, the Fuehrer never mentioned aggressive action or war against Russia. He spoke only about warlike entanglements with Russia which were to be considered and might be imminent but I did not interpret that as aggressive war on Russia.

Q Didyou know that the war between Nazi Germany and the Soviet Union was a defensive war on the part of Nazi Germany?

A The Fuehrer never told me anything except what I have already testified to, that concentration of troops had been observed which might lead us to conclude that warlike entanglements with Russia are to be thought of or to be declared in any and all counts, and therefore, let Mr. Rosenberg

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concern himself with the questions of the East. Beyond that, I knew nothing. I didn't know at all that aggressive action was to be taken.

Q Just one minute.

A But one might have concluded that we would be attacked as far as we were informed; it was pictured that way.

Q But you, you know, witness, that as early as the 20th of April 1941, Hitler was planning and plotting the details of action against the Soviet Union. Just look at Exhibit 865-PS, USA 143, will you? That, as you will see, is a decree of the Fuehrer, in which it is dated the 20th of April 1941, and, let me remind you, that the invasion of the Soviet Union by Nazi Germany did not take place until the 22nd of June. On the 20th of April, you signed that decree, in which Hitler named Rosenberg as "My Commissioner for the central control of questions connected with the East European Region."

A Yes, that is correct. I have never testified to anything else. That was the first mission which Rosenberg was given and it was on this occasion that the Fuehrer was speaking about a possible warlike entanglement with Russia.

Q Just a minute. Answer the question I am putting to you at the moment. You can give your explanations later. You look further down that document 865-PS. You see it is a letter from you to Keitel, dated the 21st of April, in which you say, "Herewith I am sending you a copy of the Fuehrer's decree by which the Fuehrer appointed Reichsleiter Rosenberg as his Commissioner for the Central Control connected with the East European Region. In this capacity, Reichsleiter Rosenberg is to make the necessary preparations for the probable emergency with all speed." Are you saying that these activities of yours and Rosenberg at that time were not connected with aggressive plans on the part of Nazi Germany?

A I do not wish to say that at any part; the Fuehrer was concerned with the matter, as I said before, but the Fuehrer believed that we might get into a war with Russia, but that was the matter of necessity through which Rosenberg was to have this mission, but not with one word is

H0105-0060

aggressive war mentioned and indeed there never was any such thought.

Q Do you think that Rosenberg was in communication with other government departments of the Third Reich, in connection with this preparation for aggression against the Soviet Union, weeks before the invasion took place; do you not?

A He had influence on "whom", did you say? I didn't quite follow.

Q Perhaps I was not understood. He was collaborating with other departments of the Third Reich weeks before the invasion happened.

A In carrying out his plans he may have worked with other departments but what the scope and the aim was, that I do not know, and what further instructions he had from the Fuehrer, that I do not know either.

Q At least you do know that Hitler made clear to Rosenberg, before he took office, what the main principles of Nazi policy towards the conquered territories of the Soviet Union was to be, do you not? You attended the conference of Hitler on the 16th of July 1941, when he set out his principles and aims with regard to the Soviet Union?

A After the outbreak of the war this happened but not before. Before theoutbreak of the war, as far as I was concerned, and to me, there was never any talk about war of aggression.

Q You said that Rosenberg was a man who believed again in liberal treatment for those whom the Nazi armies conquered, but you were at Hitler's conference in July 1941, in the very first weeks of this man's responsibility, and you heard Hitler in that conference enunciating a program of terror and brutality and exploitation, did you not?

A Already, on the 16th of July, Mr. Rosenberg had his doubts and objected.

Q But they were doubts which didn't cause him to leave his post and he continued until the Red Army made his position somewhat uncomfortable in the East, did he not?

A Yes, but he always followed mitigating principles and actions. I spoke about his activities generally. I do not know about every special measure which he took and I can only tell you what Rosenberg told me

H0105 - 0061

personally, what he complained about personally, and what he enumerated as his objectives to me. If indeed and in practice he acted differently, that I do not know.

Q You were familiar with the conflicts between Rosenberg and Koch, the Reichcommissar for the Ukraine, were you not?

A Yes, I knew that very well. Rosenberg was always the man who was for mitigating influences and who wanted to have all matters, political matters handled reasonably. Koch was the one who leaned toward a more radical solution.

Q When you say a "more radical solution," what do you mean by that, "Mass murder"?

A No, I do not mean that at all.

Q But you did in fact know that Koch was a murderer, did you not?

A That Koch was a murderer?

Q Yes.

A I do not know the particulars.

Q I will just draw your attention to them. Look at the document 032-PS, which will be GB 321, the document which has not yet been exhibited. That is a report dated the 2nd of April 1943, from Rosenberg to Himmler, with a copy to you. It is a report on the murder of the people of the Zyman wooded area so that there could be established a place for Reichscommissar Koch to hunt in.

A I know of this complaint. I transmitted it to the Fuehrer. Mr. Rosenberg complained that Reichscommissar Koch had said he had a certain region cleansed for he wanted to hunt there, and Rosenberg complained about this to the Fuehrer.

Q And this word "cleansed," does that mean emigration or does that mean murder?

A To cleanse means to make it free.

Q I don't want you to shut this document. I just want you to look at this document because you have denied knowledge that Koch was a murderer. In paragraph 2 of the report you see this:

H0105 - 0062

"Now, I received the following information from an old Party Comrade who has worked for nine months in Volhnia and Podolia for the purpose of preparing for the taking over of a District Commissariat or of a chief section in General District Volhnia and Podolia. This information goes as follows:

"On the order of the highest position it was directed that the whole Rayon Zuman be evacuated. Germans and Ukrainers both stated that this was happening because the Reich Commissar wished to have the whole wooded area Zuman for his beloved hunting. In December 1942 (when the cold was already severe) the evacuation was begun. Hundreds of families were forced to pack all their possessions over night and were then evacuated a distance of over 60 km. Hundreds of men in Zuman and the vicinity were mowed down by the gunfire of an entire Police Company, 'because they were Communist party members'. No Ukrainer believed this....."

Have you not found it witness, because I want you to follow this, you see. Have you found it?

A No, I have not found it.

H0105-0063

A No, I have not found it.

Q It is very difficult to follow these embarrassing parts of the document, you know.

A Yes, I found the place.

Q I will read the last sentence so that your memory as to these murders might be refreshed.

"Hundreds of men in Zuman and the vicinity were mowed down by the gunfire of an entire police company because they were Communist Party members. No Ukrainian believed this and likewise the Germans were perplexed by this argument because if the security of the area were at stake it would have been necessary to execute communistically inclined elements in other regions. On the contrary it was generally maintained that those men were ruthlessly shot down without judgement because so extensive an evacuation in so short a time was out of the question and furthermore therewas not enough space available at the new place for settling the evacuees."

Are you saying that after reading that report you did not know that Koch was amurderer?

A On the strength of that report I did everything possible. The report was immediately submitted to the Fuehrer and if it actually took place then I must admit it was murder but today I do not recall if this did take place but if it did it was murder but I am not a judge.

Rosenberg complained very bitterly in this matter and the matter was immediately passed on to the Fuehrer.

Q Rosenberg continued in office with this man as one of his commissars, did he not?

A As far as he was concerned the Fuehrer gave the decision to Bormann and he tried to console Rosenberg. Rosenberg tried to resign repeatedly but was not able to do so.

Q I want to turn to another territory so that you can give further information to the Court as to the conditions in the occupied territories because what I am putting to you generally, you see, is that the battles that were going on there were battles between ruthless men struggling for

H0105 - 0064

power and that there was a totally absent from this scene of Nazi control any person who was pressing for human decency, pressing for human pity. You were not pressing for either of those things, were you?

A I did not quite understand your question. There are several languages it seems to me on this channel, at least there is a disturbance. May I ask that you please repeat the question.

Q You, in the situation in which you found yourself, were not acting on the side of human pity or human decency in this regime, were you?

A I was always on the side of human decency and pity and I did manythings. I have saved the lives of perhaps one hundred thousand to two hundred thousand Jews.

Q All you did was to forward annihilation reports to the Himmlers and Bormanns and Hitlers, was that not so?

A Annihilation orders, no I did not issue any of them. They never went through my hands.

Q There is one matter which went through your hands relating to the defendant Keitel and the ruthless policy that Terboven was carrying out against the Norwegian people. I draw your attention to the document --

A I asked Mr. Keitel to define his position and I objected to the Fuehrer against the shooting of hostages and my officials, my subordinates can vouch for that.

Q I just want to draw your attention to document 871-PS, which will be Exhibit G.B. 322, which is a letter from Keitel to yourself and is related to the report by Terboven in document 870-PS, which my learned friend Sir David Maxwell-Fyffe put in in connection with the defendant Keitel.

Now, you will see that that letter, 871-PS, is a letter from Keitel to yourself and it says in the first paragraph:

"In view of checking sabotage in Norway I agree with the view of the Reichscommissioner for occupied Norwegian territory to the extent

H0105 - 0065

that I expect results from reprisals only if they are carried out ruthlessly and if Reichscommissioner Terboven is authorized to carry out shootings."

A Yes, I submitted that to the Fuehrer and at the same time expressed my view against the shooting of hostages and I was successful to the Fuehrer.

Q You were successful in what respect?

A The Fuehrer in a discussion in which Terboven participated expressed explicitly that the shooting of hostages was not to take place on that scope and that extent which he desired and others wanted. Hostages were to be taken only from the circle of miscreants.

Q So the effect of your intervention was that the murders did not take place on the scale thatTerboven wanted to commit them, did it?

A Yes, Terboven wanted to have large-scale shootings of hostages but the Fuehrer did not approve of that and I objected to the shooting of hostages and the gentlemen of the Reichschancellory can vouch for that.

Q And as a result --

A Yes, it is right that I received this message. Matters took the following course. I had a request from Terboven and then I wrote to Keitel and told him that I intended to submit the request of Terboven to the Fuehrer -- please give me your views and your position. Then the report came back from Keitel and then it was submitted to the Fuehrer.

The request of Terboven was watered down. The Fuehrer took the position that first of all the miscreants were to be taken; then hostages were to be taken out of the circle of the miscreants but shootings were not talked about.

Q Witness, you know perfectly well that over all the territory where Nazi power ruled hostages were taken, fathers and mothers were killed for the actions of their sons against the Nazi regime. Are you saying you do not know about that?

A No, I did not know that for I was not supervising the people in theoccupied territories and I never went to the occupied countries.

Q But you were receiving reports from there, and you were the link between the ministers. Just a minute -- you were the

H0105-0066

link between the -- now will you listen to my question?

You were the link between the ministers of the occupied territories and Hitler, were you not?

A Not in all cases, no. Many of them went through Bormann, especially Terboven. My officials and my subordinates in the Chancellory can vouch for that. Terboven went over my head all the time and sent his reports to Bormann.

Q You were working hand in hand --

A Of course some of them went through me.

Q You were working hand in glove with Bormann, you know, were you not?

A Yes, I had to work with him.

Q You had to work with him? You were the head of the Reichschancellory.

A In order to submit proposals to the Fuehrer I had to go through Bormann. I had to work closely with him to keep the Party agreement on many things and in many matters the agreement of the Party was prescribed and therefore I had to work with Bormann.

Q Did you find it distasteful to work with Bormann?

A I did not particularly like it. It was my duty to work with him.

Q Of course I am suggesting to you, you see, that the power which you and Bormann exercised was very great.

A Yes, it was a one-sided activity for Bormann could go to the Fuehrer daily but I only every six or eight weeks. Bormann always passed on the decision of the Fuehrer to me and had personal audiences with the Fuehrer but I did not.

Q You were seeking to the very end to maintain your collaboration with Bormann, were you not?

A I had to work with Bormann, that was the only way in which to bring certain things to the attention of the Fuehrer at all. During those last eight months I had no personal discussion with the Fuehrer and the things I could succeed in through Bormann.

Q You wrote to Bormann, you remember, as late as the first of January, 1945, a letter, Exhibit D-753A.

A Yes, I know that and this letter contains the fact -- I can tell you that from memory without reading the letter. I complained that I could not be heard by the Fuehrer any longer and I complained that this situation could no longer go on.

H0105 - 0067

Q And you say in that letter in the last paragraph but one:

"For our unanimous cooperation to date has for a long time been a thorn in the flesh of one person or another, because they would have preferred to play us of one against the other."

That is the last paragraph but one of your letter, right at the end of it.

A The next to the last page you mean?

Q The last paragraph but one of your letter, the last sentence but three.

A "In conclusion I would like to say --", is that the paragraph you mean?

Q The sentence before that.

"For our unanimous cooperation to date --."

A Yes but I would like to add today that I did wish for cordial relations and that it was the New Year and I was congratulating him on the New Year and I stated that we might continue cordial relations. Therefore, I said everything had not gone well.

Q You were not seeking to shift responsibility in this matter to Bormann. You were the link between the occupied territories and Hitler?

A I was not the complete and only link, only for things of secondary importance. The Reichscommissars were directly responsible to the Fuehrer.

Q I want to ask you some questions now, not about terror which existed in the territory that Germany conquered but about the terror in Germany itself. You have testified as to the defendant Frick that as Minister of Interior he was in effect a man without power, a man of straw. That is the rough effect of your evidence, isn't it?

A I said that he had no influence on the police.

Q Did you not know that complaints against arrests in concentration camps went to Frick?

A Yes, many cases were referred to Frick.

Q Do you know whether he exercised his power in any substantial way for the victims who were in those camps? Did you not hear my question?

A I can only understand half of what you are saying. Loud noises interfere on my channel. Perhaps I had better take the earphones off.

Q No, put them on. Just try again, just put them on will you? Put your earphones on will you and just try patiently you see, a little patience.

H0105-0068

Is it not a fact that Frick was the person to whom petitions for release from concentration camps went?

A Such petitions, of course, came to Frick but numerous petitions of that sort came to me. I dealt with them carefully and methodically and in many cases I was responsible for the release of certain people.

Q But what did Frick do in his capacity as having authority in these matters?

A Frick passed on these petitions to me and what he did in general with petitions and such I do not know.

Q I want you to listen to an affidavit by a Dr. Sidney Mendel, a Doctor of Law, which is Exhibit 601-PS.

He says that he is a Doctor of Law; that until the end of 1938 he was a member of the Berlin Bar and admitted as an attorney at law of the German courts. His legal residence is now 88-20 Elmhurst Avenue, Elmhurst, State of New York.

H0105 - 0069

In his capacity as attorney he handled numerous concentration camp cases in the years 1933 to 1938. He remembers distinctly that in the years 1934-1935 he approached in several cases Frick's Vice Ministry of the Interior as the agency superior to the Gestapo for the release of concentration camp inmates. Frick's Ministry had special control functions over concentration camps.

The deponent further states that he informed the Ministry about illegal arrests, beatings, tortures, mistreatment of inmates, but the Ministry declined the release and upheld the decisions of the Gestapo.

That was Frick's attitude towards these matters, wasn't it?

A. I really don't know just what caused Frick to make these complaints. You will have to ask Dr. Frick.

Q But you have testified on behalf, you see of Frick. If you now say you know nothing about him, then I shall not trouble you further with the case of the defendant Frick; but you gave evidence for him, you know.

A I can only give evidence on his general principles, but I cannot know just what caused him to give out particular matters.

Q You said that in the Protectorate of Bohemia and Moravia Frick again was a man without power. That was the effect of your evidence, wasn't it?

A. I said then that he was a more or less decorative personality, but that does not exclude that he received petitions and proposals. How he did them and in so far as he was competent in these matters, I don't know.

Q You say he was a decorative personality. That is a matter of taste. But one of his functions, at any rate, was that he was the person to decide whether death sentences in his territory were carried out or not. That's not a small matter for the human being in the Protectorate of Bohemia and Moravia, you know.

A Please then let us eliminate the word"decorative". I mean, more decorative than actual. The head of the state is usually competent as far as certain state matters are concerned, and Frick was the German head of state there and had to do with matters of releases and reprieves.

H0105 - 0070

Q You know, witness, perfectly well that it was within Frick's power to reprieve the death sentences that were being carried out in the territory of Bohemia and Moravia, don't you?

A Yes, certainly that was within his power; there is no doubt about that.

Q And I suggest to you that Frick did not exercise clemency or influence by moderation, but on the contrary enforced brutal measures against the victims of Nazi administration in that unfortunate part of Europe.

A As far as the right to reprieve, he had that power. How he exercised that power, according to what inner principles he exercised that power, I do not know.

Q You were concerned with Frick and the Ministry of Justice

H0105 - 0071

in the drafting of penal laws against Poles and Jews in the annexed eastern territories, were you not?

A That proceedings as far as the Department of Justice corresponded with me, but I believe nothing ever came of the matter.

Q You had no part in the drafting of that legislative, did you?

A No, I did not know that, I believe there was no special laws issued to my recollection. The putting down of laws was left to the Gauleiter, but I do not know.

Q The laws were left to the Gauleiters, to the Koch's and the Frank's and the Rosenberg's; is that what happened?

A Now we are concerned with the Provinces of East Prussia and the Province of Posen and we corresponded to that.

Q I now want you to answer some questions about Sauckel.

THE PRESIDENT: Shall we adjourn for ten minutes?

MR. ELWYN JONES: If Your Lordship please.

(A recess was taken.)

THE PRESIDENT: Dr, Lammers, can you hear what I say?

THE WITNESS: Yes.

THE PRESIDENT: Well, will you kindly try and answer the questions after they have been put to you and not break into the questions? Try and wait for a moment until the questions has been put because the interpreters and the reporters are finding it very difficult to take down what you say and to interprete what you say.

BY ELWYN JONES:

Q I want to deal with your relations for the moment with Seyss-Inquart. You were receiving reports from him as to his administration in the low countries, were you not?

A Every quarter of the year or so a report did reach me, yes. I transmitted it to the Fuehrer. There were also individual reports.

Q And in the low countries as elsewhere you know that the object of German administration was to extract and exploit that territory for the German advantage as much as possible, do you not?

A The purpose in the occupied countries was to make them useful to us for the

H0105 - 0072

waging of the war; whether there was a question of exploitation, I don't know.

Q To reduce their standard of living, to reduce them to starvation; that was one of the results of the Netherlands policy; you knew that, didn't you?

A I don't believe that we went as far as that. I have relations in Holland and know that people there lived much better than we did in Germany.

H0105 - 0073

Q I want you to look at the document 997-PS, which is already Exhibit RF122, which consists of a letter which you sent to Rosenberg, th Defendant, enclosing a report given to you by Stabsleiter Schicketanz to the Fuehrer, together with a report delivered by Reich Commissioner Dr. Seyss-Inquart, about the period from May 29 to July 19, 1940. If you look at page 9 of your text, page 5 of the English text, of 997-PS, you will see there is a first statement of the outlines of German economic policy in the Low Countries. You will see the paragraph is marked on your copy, so that your difficulty of finding where these passages are might be eliminated. You see it reads:

"It is a question here of reducing the consumption of the population in time of war as a matter of course. There is also a question here of getting supplies for the Reich."

Just one moment and I will read out the passage to you.

"It was clear that with the occupation of the Netherlands a large number of economic but also police measures had to be taken, the first ones of which had the purpose of reducing the consumption of the population in order to get supplie for the Reich, and, on the other hand, to secure a just distribution of the remaining supplies."

That is a very concise statement of the economic policy that Seyss-Inquart was pursuing towards the Dutch people, is it not?

A. It is also a very reasonable policy. The consumption had to be reduced so that the supplies can be equally distributed in order to have something for th Reich. This is not my report but rather a report of Mr. Schicketanz.

Q. But the object of this reduction of consumption of the population was to benefit the Reich so that the territory of the Low Countries should be robbed in order that the Reich should profit. That was the whole policy, wasn't it?

A. That does not stand in this report; it stands here that first the suppli should be aquired for the Reich; and, secondly, on the other hand there should be an equitable distribution of the supplies, that is to say, also among the Dutch people. there is nothing here about a policy of exploitation.

Q If it please the Tribunal, it has the document and can read the language in which it appears.

I want you now to turn your mind to the Defendant Sauckel. You, witness knew quite well of the vast program of enslavement of the people conquered by the

H0105 - 0074

Nazi forces that Sauckel was engaged upon, did you not?

A I had Sauckel's program at hand and also his explanation of it. I did not have the impression that this was an enslavement program. Sauckel was in his opinion very reflective and quite moderate, and he made all sorts of efforts to acquire labor forces by voluntary enlistment -- those labor forces that he felt to be necessary.

Q Are you suggesting that you thought that the millions of foreign workers that Sauckel dragged into the Reich came there voluntarily?

A They did not all come voluntarily. For instance, in the case of France they came from France because of a law passed in France for obligatory labor. That was a measure taken by the

H0105-0075

French Government.

Q I want you to look at one of the first reports that you received from Saukel on his labor program. It is 1296-PS, Exhibit GB 325. It starts with a letter from Saukel to you dated the 29th of July 1942:

"Dear Reich Minister:

"I am taking the liberty of sending you enclosed the copy of a report to th e Fuehrer and to the Reich Marshal of the Greater German Reich for your information. Heil Hitler.

"Yours faithfully,

"Fritz Saukel,"

A Yes, this report must have reached me, of course.

Q Yes. And you must presumably have examined it, did you not?

A Not right now; but it was submitted to me for me to look at.

Q And you examined it at the time?

A I presume so. I may have just skipped through it quickly. It didn't have any further interest for me.

Q You will see in the first page of the report itself that it indicates, for instance, that in the period from April to July 1942, which was the first period of activity of Sauckel as plenipotentiary for manpower, he had obtained a total of 1,639,794 foreign workers, and of those you see that 221,009 were Soviet Russian prisoners of war. You saw that, didn't you?

A I probably did read it, yes; but I had no reason to object to it. Sauckel was not my subordinate. He was actually subordinate to the Four-Year Plan; for practical purposes he was subordinate to the Fuehrer. This was not sent to me immediately and it was not given by me to the Fuehrer because I know that the same report had been submitted by Reichsleader Bormann to the Fuehrer. I had nothing to do with this matter.

Q But you knew perfectly well that it was wickedly wrong, didn't you, to compel soldiers that had been captured in battle to go to wrk against their own country?

A That was Sauckel's job to arrange with the offices that it had

H0105 - 0076

to do with. As I said, he should arrange this with the appropriate offices and with the Wehrmacht, and matters of international law with the foreign office. Moreover, I don't see in this report any mention of prisoners of war.

Q I don't want to suggest that you are---

A I haven't read anything here of prisoners of war so far.

Q Just look at the first page of the report. There is no mystery about this, you know. You can read German perfectly easily.

A But I can't read pages and pages of a long report in one minute.

Q Just look at the first page of the report.

A Oh, yes, now I see it.

Q And you knew it at the beginning of the questioning of this matter--- Just a minute, if you please. When I am speaking would you mind waiting until I have finished before you interrupt. Otherwise the translation machinery is not able to offer a prompt translation. You see from that report

H0105 - 0077

quite clearly, do you not, that in the very first four months of Sauckel's career as a slave driver he obtained 221,009 Soviet prisoners of war to work in this labor machine?

A That didn't interest me in detail. I had no supervisory powers in this matter. The repport as to whether he had done this or whether he might was turned in and was taken up by the authorized offices, and it wasn't my job to examine this matter. I simply received this so that I should know about it.

Q You have testified on Sauckel's behalf that he resisted the suggestion that the SS should work in this sphere of labor personnel. Did you not say that ?

A No, that I did not say. I said that he did not want exclusively the SS, but that he wanted some support for the exclusive powers that he had at that time. This was particularly true in the partisan regions.

Q You knew that Sauckel was asking for more help from the SS to get more labor. That is what he was after, wasn't it?

A Yes. Otherwise he couldn't work in these regions.

Q Just look at the Exhibit 1292-PS, whixh is Exhibit USA 225 and RF 68 That is the report of a conference on the allocation of labor in 1944, the 4th of January, the minutes of which you wrote yourself, so that if anything you say is to be relied upon that is your report. You will see that at that conference Hitler was there, Sauckel, Speer, Keitel, Milch, Himmler.

A This was a new work program for 1944 in which I was commissionned to inform the proper offices. I took part in this only because it was a measure which covered a number of offices had to be made known to all of them. Otherwise I never would have participated in this at all.

Q And in that conference Hitler said that Sauckel must get at least another four million workers for the manpower pool, did he not?

A That could be. The Fuehrer asked -- demanded -- more of Sauckel than Sauckel though he could provide.

Q And Sauckel said that whether he could do that depended primarily on what German enforcement agents will be made available; his project cannot be carried out with domestic enforcement agents. And then your record goes on:

H0105 - 0078

The Reichsfuehrer SS explained that the enforcement agents put at his disposal are extremely few, but that he, that is to say, Himmler, would try helping the Sauckel project to succeed by increasing them and working them harder. The Reichsfuehrer SS made immediately available 2,500 men from concentration camps for preparation in Vienna. That is to say, it is clear from that report, is it not, that Sauckel was seeking more help from the SS and that Himmler was saying he would do his best to help him? Is that not so?

H0105 - 0079

A There can be no doubt of it, but Sauckel did not want to have exclusively the SS in the countries in question. He wanted whatever help was necessary. In France, for example, the fort commanders.

Q There is a last document which I want to put to you on Sauckel. It is Exhibit 3819-PS, GB 306, a small part of which was read into the record by Sir David Maxwell-Fyfe. That is a report from Sauckel to Hitler, dated 17 March 1944. I take it that you probably saw a copy of that report, did you not?

A I do not know.

Q Just look at it, because it is most illuminating on the attitude of Sauckel toward the assistance of the SS and the German police.

A This is of the 11th of July, 1944. I have one in my hand of 11 July 1944.

THE PRESIDENT: Mr. Elwyn Jones, he is saying that he has in his hand a document of 11 July 1944. The document you referred to was 17 March, was it not?

Q Yes. You have got your minutes of the conference. Is there not attached to it a report of Sauckel dated 17 March?

A There is another report here dated 5 April.

MR. ELWYN JONES: I shall not proceed with that part of the document, My Lord.

Q If you will turn to the document dated 12 July, that will do for my purposes. You remember that is your own report of the conference of 12 July 1944 on the question of the increased procuring of foreign manpower, and you opened that conference, witness, did you not?

A I was always on neutral ground at such conferences.

Q What were you neutral about, witness?

A I had no office under me. The other departments had their departmental interests.

Q You were not being an honest broker between Sauckel and Himmler, were you?

A I had no department under me. I repeatedly made efforts to bring about a compromise between the Hitler genius sort of people, and also under such circumstance it might have happened that I did so between Himmler and Sauckel.

H0105 - 0080

I do not think that can be referred to as playing the honest broker. I wanted to make efforts to bring these two together so that it would be possible to inform the Fuehrer of such differences of opinion.

Q Just look at the manner in which youopened that conference. You said there—it is the second sentence under your name:

"He limited the theme of the discussion by saying that actually all possibilities would be examined by which the present deficit of foreign manpower could be covered."

Then you say in the next question:

"The primary consideration will have to remain the solution of the question whether and in what form greater compulsion can be exercised to accept work in Germany."

The operative word is, you know, "compulsion".

A Here female labor was considered, the reduction of the age limits, and also the work of minors.

Q Just go on to the next sentence of your statement.:

"In this connection it must be examined how the executive forces, regarding the inadequacy of which the plenipotentiary for Labor Commitment raises lively objection, can be strengthened on the one hand through an influence on the Foreign Office and on the other through building up the indigenous administrative executive, whether by an increased use of the Wehrmacht, of the police or other German agencies."

That is how you opened that conference, you know.

A That is quite correct. Those were the problems that had to be discussed.

Q To produce more forced labor and discover by what terrorizing by the police and what pressures by Ribbentrop the results could be achieved? That was the object of the conference, was it not?

A No, that was not the object. We did not consider how we might terrorize but how we could, through some sort of official action, get our hands on the labor forces which we needed. Itis a matter of course that there had to be some enforcement agency behind this which did not have to be called a terror. I could describe the situation in France, for example. The workers whom Sauckel had recruited were, because of the French enforced labor law, brought to the railroad station by the French government for transportation.

H0105-0081

Q Just answer my questions, will you? You are going on to a different matter.

A I did not suggest terrorist measures. There must be some enforcement agency in every state, and if one talks of compulsion, that is by no means terrorism or a crime.

Q I just draw your attention to the contribution of General Warlimont in this discussion, where he said that:

"The troops employed in fighting partisans are to take over, in addition, the task of acquiring manpower in the partisan areas. Everyone who can not fully prove the purpose of his stay in these areas is to be seized forcibly."

And you said:

"On further inquiry by the Reich Minister, Dr. Lammers,"--This is on page 10 of the English record--"whether with the withdrawal of the troops in Italy the population suitable for recruiting could not be taken along, Colonel Sahs, plenipotentiary general for Italy, stated that Field Marshal Kesselring had already decreed that the population in a depth of 30 kilometers behind the front area was to be captured."

The whole emphasis of that conference was on the use of force, was it not, and the collaboration of the executive agencies of the state to procure necessary forced labor for the Reich?

A Yes, a certain coercion was to be applied; there can be no doubt of that.

MR. ELWYN JONES: There are only two more matters, My Lord, which I feel that it is my duty to put to the witness.

Q On the question of the massacre of the Jewish people, you said in your evidence before the adjournment that you had saved 200,000 Jews yourself. Do you remember saying that to the Tribunal?

H0105-0082

A Yes.

Q You saved them from extermination, you meant, I take it?

A No.

Q What did you say?

A I saved them from evacuation and from nothing else. Subsequently I found out and nowI know that, as a matter of fact, I really saved them from extermination.

Q You know you have testified -- just a moment -- you have testified to the Tribunal as to a conference which took place early in 1943 where you were invited by the Reichssicherheitshauptamt to send a representative to the conference dealing with the Jewish problem. Do you remember saying that to the Tribunal?

A Yes, the matter was discussed.

Q That was a famous conference which Eichmann presided over, do you remember?

A That I do not know. I was not present.

Q The invitation to attend the conference, that came from Kaltenbrunner, did it not?

A The invitation came from the RSHA.

Q Not from Kaltenbrunner personally?

A No, that I do not know.

Q And you sent a representative to the conference, did you not?

A A representative from me had to go there and he had specific orders, which my State Secretary who was present will confirm, simply to listen and to take no attitude during the conference, because I wanted to reserve for myself the right to communicate these things to the Fuehrer.

Q Was your representative at this conference instructed by you to take no attitude? Was that what you said to the Tribunal?

A He was specifically ordered to take no attitude. He could not at any rate because no decisions were reached by this conference, but he was not to make any statements on his own initiative because questions such as the Jewish question I myself wanted to communicate to the Fuehrer. For this reason, I instructed him not to take any attitude.

Q You sent Gottfried Bohle as your representative to that conference, did you not?

A I did not send him; my State Secretary sent him, and he was the competent man.

Q Just answer my questions, briefly, won't you? Gottfried Bohle made a report to you, did he not?

A I received a short report.

Q And did that report indicate to you that Eichmann wasplanning extermination?

A No, there was nothing about that in this report. We also knew nothing about that. At least, I cannot remember that there was anything in it that would have induced me to take any action on my own part.

Q Yesterday you told the Tribunal that concentration camps were not mentioned in the Reich budget. Do you remember saying that?

A I did not understand the question.

Q Yesterday --

A I did not read it. I do not know.

Q Yesterday you told the Tribunal that nothing was mentioned in the Reich budget about concentration camps.

A I neither read nor found anything on that subject. These finan - cial matters did not interest me much anyway.

Q You are saying now that you do not know whether there were any references to concentration camps in the budget or not?

A I could not say for sure. I can not recall that the concentration camps were mentioned specifically in the budget.

Q Does it surprise you to know that for the 1939 budget for the armed SS and concentration camps in the Ministry of the Interior budget, there was a sum of 104,000,000 marks and 21,000,000 marks set out as expenses for those objects? Did you know that?

H0105 - 0083

H0105-0084

A. I did not study this budget report in all its details. I didn't read these things through; I was interested only in my immediate job as Reich Secretary. I didn't concern myself with these things; I had no reason to.

Q. Did you know that there were over 300 concentration camps in Nazi Germany?

A. No, I didn't know that.

Q. How many did you, as head of the Reich Chancery, know of the existence of?

A. I only knew of a few.

Q. Only a few.

A. Three at the most.

Q. Are you solemnly, on oath--

A. But I did know that others existed.

Q. Are you solemnly, on oath, saying to the Trinunal that you , in the very center of the web of Nazism, didn't know of the existence of more than three concentration camps?

A. Yes, I do want to say so. I didn't stand in the very midpoint of Nazism; I was simply administrative secretary for the Fuehrer. I didn't concern myself personally in these matters. I knew by name of about two or three concentration camps, and I also knew that there must be a few others, but more I cannot say under oath.

Q. I put it to you that you knew quite well of this regime of terror but continued to serve in it until the last. Is that not so?

A. What regime of terror are you talking about? The concentration camp system? Yes, I knew that that existed.

Q. But that didn't trouble your conscience, I take it.

A. That they existed? I made my suggestion to the Fuehrer about the concentration camps, and he excluded me from that question as early as 1934, that ,s after I had made suggestions to him on the subject, and he turned the matter over to Himmler. Thereafter I had nothing whatsoever to do with concentration camps except when complaints came to me, which I regarded as

H0105 - 0085

complaints that were directed to the Fuehrer, and whenever it was possible I followed through on them and, to some extent, helped people out.

Q. You, of course, were an SS Obergruppenfuehrer. Perhaps you didn't recognize terror when you heard and saw it.

A. I was SS Obergruppenfuehrer, which was an honorary rank, just as I said before was true for Seyss-Inquart. I had no office in the SS, I had no command, no troops, no nothing.

Q. And you profited considerably -- you and your Nazi colleagues -- from this regime, did you not? You, as the Comptroller of the Reich Chancellery funds, can probably assist us in that matter.

A. What did I have enormous?

Q. Funds, money, Reichsmarks.

A. I had my salary, to be sure.

Q. And you were responsible for directing ---

A. Not as an SS Fuehrer.

Q. As Reichschancellor you were responsible for distributing the largess of the Nazis among yourselves, were you not?

A. I was in charge of the moneys of the Fuehrer, and on his instructions I amde the parments that he instructed me to make from those funds. I didn't allocate money here and there wherever I wanted to.

Q. You, as Reichschancellor, delivered a million Reichsmarks to Dr. Ley, did you not?

A. That was a payment that the Fuehrer specifically approved for Dr. Ley. That had nothing to do with me personally.

Q. And Ribbentrop was another recipeint of a million, was he not?

H0105 - 0086

A yes, he received a million in two parts, five hundred thousand each time.

Q And Keitel was another millionaire, was he not? He received a million, did he not?

A He received a payment to his estate, because the Fuehrer renewed the old Prussian practice of giving landed estates to its generals.

Q And you yourself received six hundred thousand marks, did you not?

A I received six hundred thousand marks on my 65th birthday. It was calculated that this was a sum that I had earned in performing previous functions for which I was not paid; and it also to be considered that I had no private fortune. I was going to buy a little house with this money.

MR. ELWYN JONES: That is all.

If Your Lordship will allow me to clarify the exhibit numbers of the documents I have put in: 3863-PS is GB-220; 2220-PS is USA-175; 686-PS is USA-305; 865-PS is USA-143; 1032-PS is GB-321; 871-PS is GB-322; D-753-a is GB 323; 3601-PS is GB-324; 997-PS is RF-122; 1296-PS is GB-325; 1282-PS was USA-225; RF-628, 3819-PS, was GB-306.

THE PRESIDENT: Mr. Elwyn Jones, have you put in the budget which shows the figures that you gave us?

H0105-0087

MR. ELWYN JONES: It is on page 1394 of the 1939 budget. For the purposes of the record, it will be GB-236.

THE PRESIDENT: Thank you.

MR. ELWYN JONES: The prosecution will have an extract made from this vast volume, My Lord, for the purposes of the court document.

THE PRESIDENT: Very well.

Colonel Pokrovsky, the Tribunal thought that there was only going to be one cross-examination of the witnesses who were not defendants.

COLONEL POKROVSKY: The Soviet Delegation wished to question the witness Lammers. It was suggested that the questioning be broken into two groups, that part of the questions be asked by the British Delegation, and the other part was supposed to be asked by the Russian Delegation.

MR. ELWYN-JONES: If Your Lordship pleases--

THE PRESIDENT: Was this the one case that was mentioned?

MR. ELWYN-JONES: This is the exceptional case, My Lord, and the agreement was made before the new regime of cross-examination was introduced. My colleague, Colonel Pokrovsky, and I did agree to share the work, and there are very few matters which Colonel Pokrovsky has indicated which he desires to put, and that was in agreement between the prosecution.

THE PRESIDENT: Very well.

BY COLONEL POKROVSKY:

Q On the 6th of November 1945, you were interrogated by a representative of the Soviet Prosecution. Do you remember this interrogation?

A Yes, I do remember an interrogation by a representative of the Soviet prosecution.

Q You testified at the time that Hitler--

A Yes.

Q You don't know what I am talking about, so don't hurry.

Now, you testified that Hitler authorized you to render your help to Rosenberg. You remember that, do you not?

A Yes, Rosenberg was to take over the political work in connection

H0105-0088

with Eastern problems.

Q What was your help to Rosenberg.

A First, it consisted solely of my meeting with him, at which time he discussed the plans that he had for an administration that might eventually be introduced. The Fuehrer had asked him to concern himself with the question as to how, in the case of war with Russia, the country that might be occupied would be administered.

Q Witness, wait a moment. Wait. I didn't ask you what the Fuehrer asked Rosenberg to do. I am asking you, what did the Fuehrer authorize or ask you to do? You told me, to help Rosenberg. In what particular form was your help to Rosenberg? Did you participate in the development -- wait a moment, please listen to my question. Did you participate in working over a plan about the organization or the administration of Eastern territories? Do you understand me?

A I didnot take part in any expansion of the program of economic exploitation.

Q I want you to take a look at a document which is under the number 1056-PS. Do you recall this document now?

A I have to look at it first.

Q Yes, that is the reason why it was given to you.

A I don't seem to recognize this document, nor do I believe that it was drafted by myself. It is apparently a plan that Rosenberg drew up.

Q In other words, you state that you did not know anything, and you don't know anything at all about this document?

A It is possible that Rosenberg gave me a copy of this plan, but at the moment I cannot ascertain, with these 30 pages, whether I ever had it in my hands or not. I don't know.

H0105 - 0089

Q Yesterday you testified before the Tribunal and your testimony was very detailed, in regard to the question of organization plans for the administration of Eastern territories. How could you give any truthful testimony if you didn't know anything at all about this basic document? This particular document really defines and determines the structure of administration in territories which were under Rosenberg. Do you understand me?

A I can't judge what is contained in that document: I can't read through a document of thirty pages in just a moment here. Please let me have some time with the document so that I can read it through. I do not believe, however, that I ever had this document in my hands. The organization in the East was carried out by Rosenberg. I simply cooperated in a basic decree in which I gave Rosenberg the powers to act in the East. But with the plan itself, I had nothing to do; nor was I interested in it.

Q If your memory has become so weak in regard to this document, then would you please be good enough to look at another document? It is less than thirty pages long. Now, you will be shown a document signed by you. It deals with the question of the Soviet prisoners of war. It is Document USSR-361. There is one place marked in this document, dealing with the fact that the Soviet prisoners of war should be treated separately from other prisoners and theyare to be in charge of the Ministry of the Eastern Territories. Have youfound the place? (There was a slight pause.) Witness Lammers, I am asking you --

A I haven't found the place yet, no.

Q Take a look at the second page. Yes, yes, in the appendix. For your convenience, the place is marked with a pencil.

A There is no marked passage in which I have before me now. There is no marked passage in this document that I have.

THE PRESIDENT: Colonel Pokrovsky, the document I have -- if it is the same one -- is in paragraphs. Might you refer him to the paragraphs?

COLONEL POKROVSKY: Just a minute, please.

The extract I have, unfortunately the paragraph is not mentioned in the excerpt I have. However, this place will be shown to the witness exactly.

(An aid indicated on the document in the witness's hands.)

This place is really marked with a pencil. He simply didn't observe it.

H0105-0090

Q Did you observe it?

A Yes, I have it.

Q And now you have convinced yourself that it is marked with a pencil?

A Yes, the Foreign Office —

Q I am not asking you about that. I am interested in another place where it says, "Exception from this rule" -- Did you find it?

A Yes.

Q --"is the Soviet prisoners of war." That is what I am interested in. --"who are under the charge of the Minister administering occupied territories, since in regard to them," and so forth. Did you find the place?

A Yes, I have the place.

Q Did you sign this document?

A I did not sign this document, because these are notes from the Foreign Office. I simply signed a letter in which this memorandum of the Foreign Office was sent by me to Minister Rosenberg, so that he could take note of it.

Q Also, with a covering note. You also sent your letter —

A In the covering note I say that I am taking an attitude toward the memorandum on the part of the Foreign Office. "I herewith put you in cognizance of this memorandum" —

Q In such a way, then, should I understand —

A I did not draw up the memorandum myself, no.

Q Then do I understand you in this way, that you actually substantiated the authenticity of this document, the document that went through your hands?

A I can't substantiate the authenticity --

Q How couldn't you say it? You told us you were forwarding it; you gave this document and forwarded it to somebody else. Did you send it to some address?

A I signed that document which accompanied the document I was transmitting. I simply informed Rosenberg of the attitude taken by the Foreign Office. Whether the document is authentic or not, I don't know.

Q I am quite satisfied with this answer.

On the 8th of April, here in the Tribunal, you stated

H0105-0091

that the solution of the Jewish problem Hitler turned over to Goering and Heidrich and later on to Heidrich's successor, Kaltenbrunner. Now, I want you to tell us in what particular form Goering, Heidrich and Kaltenbrunner participated in this solution of Jewish problems.

A I only knew that a Fuehrer order was transmitted by Reich Marshal Goering to the chief at that time ofthe RSHA Heydrich. This was further transmitted to the competence of Kaltenbrunner. This order was directed toward a final solution of the Jewish problem and it was known what was meant by that term, andin the subsequent period I made efforts on several occasions to clarify what was really to be understood by this term of "final solution". I made an effort yesterday to explain that, but I wasn't allowed to say all I wanted to.

Well, it is not sufficiently clear in particular through whom and how, in what way, you attempted to clarify the meaning of the expression, "final solution of the Jewish problem." Whom did you appeal to? Whom did y u ask?

A At first I turned to Himmler and asked him what the significance of these measures were. Himmler told me that he had been charged by the Fuehrer to evacuate the Jews who were still in Germany, and this led to a number of problems which were designated as the final solution of the Jewish problem. This is t I said yesterday.

Wait a minute, Witness, wait a minute. You said that Hitler charged Goering and Heydrich and subsequently Kaltenbrunner -- charged them with the solution of this problem. Did you address yourself to Goering in regard to it, to Heydrich and to Kaltenbrunner? Did you address them with the question, the question which you told me --

A No, I did not turn to those men, because I was of the opinion that Goering was transmitting a Fuehrer order that I do not know anything about, whether Keitel participated in this --

Not Keitel, Heydrich. You didn't mention anything about Keitel. Evidently it was wrongly translated. Kaltenbrunner yestereday, you said--

A Heydrich had these orders, as I have already testified, and I was interested to ascertain what sort these orders were, and I turned to

H0105 - 0092

Himmler to find out.

Q And so you were not successful.

A I never saw any written order, however.

Q Yesterday you said, "all except me" expressed their opinion on Jewish problems. Who are all those, "all except me"? You remember that testimony yesterday?

A I testified yesterday that I had spoken to Himmler about this question and that I reserved for myself the right to report on these matters to the Fuehrer. I then testified yesterday that I had had this talk with the Fuehrer but that the Fuehrer was very difficult in these matters. I also testified yesterday that there were rumors about killings of Jews; that induced me to investigate. I also testified yesterday that these rumors, so far as I could ascertain, were nothing more than rumors, so there was nothing else for me to do but to turn to the Fuehrer in this matter and to Himmler, and --

Q Witness, I didn't ask you what you said yesterday. I don't want to hear for a second time your testimony. What I am interested in, what I want to clarify at the moment, is that you mentioned yesterday that "all except me expressed their opinion in regard to the Jewish problem." Who is "all"? Name them. Whom do you mean? And answer my question directly.

Q I don't understand the question.

A I will repeat this question for the third time, so that you can understand it better, if necessary. Yesterday you said when you were testifying in regard to a solution of the Jewish problem, "all except me expressed their opinion and defined their attitude in regard to the Jewish problem. That also demanded my opinion." Do you remember it now?

A Yes, I remember that. Under the word "all" are to be included all those who had departments under them who were invited to this conference. This conference in the RSHA, the appropriate department heads were invited.

Q No, name the defendants here who were present.

A No Ministers were present. This was merely a conference of experts.

H0105 - 0093

You were present at the conference in Hitler's quarters on the 16th of July, 1941? You understand what conference I mean, don't you? That is, the one which was for the purpose of considering objectives of war against the USSR. Do you understand it now?

H0105 - 0094

Q Was Keitel present at the conference?

A So far as I know, yes.

Q Do you remember whether Keitel made any statements in regard to the question of objectives since the war with the USSR?

A I can't remember his mentioning that subject.

Q And did you stay until the end of the conference; were you present until the end?

A I assume I was there until the end.

Q And Keitel, too; and Keitel also stayed until the end?

A I can't remember any more today. I assume that he did but it is possible that he left earlier.

Q You cannot be positive about it?

A No, I cannot be certain.

Q On the 13th of October 1945, you were interrogated by a Lieutenant Colonel of the American Army and then you testified before that Rosenberg was appointed a Minister of Affairs of Eastern Territories and he was appointed with the personal wish of the Fuehrer. Do you remember this testimony?

A I know that I testified on this subject, yes.

Q Further, you testified, then, on the same day, during the same interrogation, that you did not recommend Rosenberg for this post, since you had certain objections in regard to his candidacy. What were the objections against Rosenberg's candidacy?

A These objections were made to Rosenberg's candidacy and there were misgivings on that subject, these misgivings being nourished by Bormann. Reichsleiter Bormann didnot want to have Rosenberg involved in these Eastern territories.

Q Say something about your objections. what were your own objections?

A At that time I submitted the question to the Fuehrer, whether such a plan was necessary at all for these Eastern questions in the case of war and then whether Rosenberg had the organizational ability that would equip him for this post.

Q Afterwards, it was in April 1941?

A Spring of 1941.

H0105 - 0095

Q On orders of Reichsminister Rosenberg, on the 16th of August, 1941, forced labor was introduced, forced labor for the Jewish population of the Eastern regions. The population from 14 to 60 years of age, people of Jewish origin, had to perform forced labor. For refusal to work they were subject to be executed. Do you know about this order or not?

A I did not know of it. I cannot recall it.

Q Take a look at this document and try and remember.

COLONEL POKROVSKY: Mr. President, this document is printed on page 50 of the second part of Goering's green file which was already submitted to the Tribunal under No. 348.

BY COLONEL POKROVSKY:

Q All right. We will let that go. Take a look at another document.

A I cannot recall ever having seen this document.

Q Perhaps your memory will be somewhat better in regard to this document.

THE PRESIDENT: Colonel Pokrovsky, in that last document that you were referring to, have these paragraphs of the ordinance been read into the record?

COLONEL POKROVSKY: I wouldn't be quite positive about that, in regard to this question, whether this particular paragraph was read into the record. All of the second part of the green folder of Goering's was presented to the Tribunal in evidence and it was listed under USA 320, Exhibit USA 320, and the next one there, the number is 347. I think that inasmuch as the witness does not remember this document, we shall touch upon it when it will be needed more perhaps. Now, we will take care of something else.

BY COLONEL POKROVSKY:

Q Take a look at the Fuehrer directive of the 29th of August 1941. This document, of course, will be easy to remember, since your signature appears on it. This is a directive in regard to the economic measures in the occupied Eastern regions.

COLONEL POKROVSKY: This document, your Honors, is also one of the documents of the second part of the green folder of Goering's. It is presented to the Tribunal in English.

BY COLONEL POKROVSKY:

Q Now, do you recognize this document?

H0105 - 0096

A. Yes, I had signed this document. These are measures taken on the suggestion of the Reichsmarshal.

Q. Very well; and how do you explain the fact that Keitel was signing directives or orders like this one, that Keitel was signing such orders of the Reich, a significant case, not particularly of military significance? How do you explain this? Why should there be signatures of Hitler, Keitel and Lammers?

A. This was a Fuehrer decree. Fuehrer decrees were drawn up by me and also Keitel, as Chief of the OKW, signed these documents if any interes to the Wehrmacht were involved, and also possibly Bormann signed such documents as a third member.

Q. Wait a moment: There is not Bormann's signature here. There is the signature of Hitler, Keitel and Lammers.

A. It was signed first by Keitel because this had to do with occupation regions.

Q. All right. In other words, Keitel was responsible for all the laws in occupied territories; is that so? Do you hear my question? Was the defendant Keitel responsible for all legal measures in occupied territories? Do you hear my question?

A. By no means.

Q Then why his signature and what was the purpose of his signature?

A. He has participated in or was interested in this matter in some way. You cannot speak of a responsibility.

Q. You should know better than anybody else about it -- all the more reason that it isn't quite clear why there was any necessity of his signature on the document and his signature is right above your signature. What is the matter?

A. It was apparently assumed that through this decree interests of the Wehrmacht would be touched upon. Keitel no doubt knows about these things better than I do.

Q. You read this document yourself and you can see very well for yourself that the armed forces are not touched in it. I have two more questions for you. You testified today that Seyss-Inquart received his rank and uniform but he didn't have any rights of a commander of the SS. Is that right?

H0105 - 0097

A. Yes, that is right.

Q. Well, then, should one draw a conclusion after this, that the title of a policeman and police uniform was really an honorary distinction in the Reich, was it not?

A. Seyss-Inquart did not belong to the police but to the general SS.

Q. But the SS was actually being used for police measures, wasn't that so?

A. No, the general SS had no police authority. That is not correct.

Q. And the uniform of the SS was really quite a distinction in the Reich, wasn't it? He received his uniform as a sort of reward for certain work he had done? Now, I want to ask you the last question.

A. It was not a reward for service done, but certain high persons in the Reich received --

Q. That is all right. I am satisfied with your answer. You don't have to be so detailed about it. I don't need any further details. Now, I want to ask you the last question. On the 17th of January, the defendant Keitel sent an application to the Tribunal to have you brought in as a witness. He stated in his application that you can testify here before the Tribunal that he, Keitel, as the head of the armed forces and of the military agencies under his charge in the occupied territories, that they were acting against the plundering commandos of Rosenberg and that they were ordered to be arrested. You as a matter of fact were called in before the Tribunal to answer that question and for some unknown reason that was the only question that was not asked you. I would like you to answer this question now. What do you know about it, in regard to the struggle of Keitel and the armed forces in the struggle with the looting commandos of Rosenberg?

A. I know only that Rosenberg was commissioned to buy up objects of art and that he was also commissioned in the occupied territories of the West to take care of the office there as well as in the East. He received this charge--

Q. Witness, evidently you misunderstood me. Wait a moment. Now, we are talking not about Rosenberg but I am asking you what you know about the armed

H0105 - 0098

forces, in regard to Keitel's application, about the fight against the looting commandos of Rosenberg. Do you know anything at all about this or do you know nothing?

A. No, I know nothing about that.

H0105 - 0099

A No, I know nothing about that.

Q All right, I am quite satisfied.

COLONEL POKROVSKY: I have no further questions of the witness.

THE PRESIDENT: In order to be acurate I understood you to say with reference to that document that you were putting to the witness just now, of June 2, 1941, that this document had no reference to military authority. But paragraph two of it says:

"To achieve this end he (that is Goering) may give direct orders to the respective military authorities in the occupied territories."

Therefore, it is not accurate to say that the document does not refer to the military authority at all.

COLONEL POKROVSKY: I suppose that the Tribunal remembers the testimony which was given here in regard to the circumstances under which Keitel was signing general directives and general laws. He explained it by fact that all these orders and directives are of an operative staff character.

In this particular case the question is in regard to the document as to state importance and which really has no bearing on military matters.

THE PRESIDENT: I am not going to argue with you. I only want to point out it was not accurate to say that the documents did not refer to military matters at all.

Dr. Nelte, do you want to re-examine?

DR. NELTE: Mr. President, I should only like to ask the Soviet Prosecutor to clarify his last question to the witness. He has stated that the defendant Keitel called Lammers as a witness so that he could testify that he, Keitel, stood in opposition in the eastern territories to the commandos of Rosenberg. Did I understand him correctly? Perhaps the German translation was not entirely reliable.

THE PRESIDENT: I am not sure I understood the question but I understood the witness was not able to answer it but I do not think it can be of very great importance. The witness was not able to answer the question.

DR. NELTE: It simply means to me that the Soviet Prosecutor wanted to say that Dr. Lammers had been called to prove certain things and I have not asked the witness the question regarding which he was called to testify. It is for thi reason that this question cannot be grounds for re-direct examination and otherwise I have no questions to put to the witness.

H0105 - 0100

THE PRESIDENT: I do not think the Tribunal thinks that it is necessary for you to go into that. You have covered the ground fully in your examination-in-chief. Then, Dr. Nelte, Have you any other witnesses to call?

DR. NELTE: Tomorrow morning I shall br finished in a half hour. I have no f further witnesses to call.

BY THE TRIBUNAL (Mr. Biddle):

Q I would like to ask you two or three questions about the Reichscabinet.

You said the first meeting was on January 30, 1933 and the last was in Nov, 1937. Were there any other meetings in 1937?

A No, the cabinet meetings were not replaced by any other sort of meeting.

Q I did not ask you that. Would you listen?

You said there was a meeting in November, 1937. Were there any other meeting in the year 1937?

A Yes, previously there were. There were several cabinet meetings, yes, not too many. There were relatively few in the year 1937.

Q How many would you say in 1937?

A How many -- might have been five or six cabinet meetings. I do not believe there were many more than that, though.

Q Do you know how many there were in --

A There could also have been fewer.

Q Do you know how many there were in 1936?

A Real cabinet meetings, probably somewhat more, a large number in 1936 but still not so many as in the first years of 1933-34.

Q That is enough, thank you.

THE PRESIDENT: Yes, Dr. Laternser?

DR. LATERNSER (Counsel for the O.K.W.): Mr. President, I have no questions t direct to the witness but I simply wanted to make a few remarks on the following matter.

H0105-0101

My colleague, Dr. Nelte, has renounced the calling of any further witnesses. In so doing he has renounced calling Halder as a witness, that is General Halder, which, of course, is his privilege. But this renunciation on his part as to hearing Halder damages my rights.

You may recall that when a written statement on the part of Halder was to be submitted --

THE PRESIDENT: Doctor, if Dr. Nelte does not call General Halder then you can apply for calling him yourself and the matter will be considered. Presumably you have already asked for him and you have been referred to the fact that he has been specified by Dr. Nelte. Now, Dr. Nelte has not called him. You can renew your application if you want to.

DR. LATERNWER: Mr. President, I do not believe that point of view is exactly relevant here. When the written statement was presented by the Russian Prosecution it was stated on objection by defense counsel that the witness should be here for cross-examination. Consequently, in agreement with my other colleagues, we agreed that Halder would be heard for Keitel. It this witness is not called I will not be in a position to cross-examine him. I believe, consequently, that I can apply to call Halder as my own witness.

THE PRESIDENT: Dr. Laternser, we will consider the matter of General Halder and let you know in the morning. It is five o'clock now.

DR. SEIDL (Counsel for defendant Frank): Mr. President, I should like to ask the witness a few more questions which have become necessary through the cross-examination and which touch on certain questions.

THE PRESIDENT: You cannot do it tonight at any rate. We will consider it and let you know tomorrow morning but you cannot do it tonight.

DR.SEIDL: I simply wanted to bring it up so the witness would still be at hand tomorrow.

THE PRESIDENT: Very well, he shall be at hand.

MR. DODD: Your Lordship, if I may have one minute of the Tribunal's time Justice Jackson asked me to bring to the attention of the Tribunal for its information these facts apropos of the discussion of this morning.

We have received from Colonel Dostart the original transcript which was

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handed to him by Dr. Thoma and it shows that there was a red line drawn in the margin beside this passage which was translated and mimeographed and included in the document book. Dr. Thoma this morning felt that he had not underlined it and he also felt that there was ubdoubtedly a mistake in the translation and Colonel Dostert tells us that there is no mistake in the translation and that it was underlined.

THE PRESIDENT: Well now, Dr. Nelte, we should like to know what your position is about General Westhoff and Obergruppenfuehrer Wielen, or something of that sort. You were given the opportunity of calling those witnesses and we understand you do not desire to do so.

DR. NELTE: Mr. President, through the cross-examination it has been clarified in my mind that the Prosecution has abandoned the original claim against Keitel, namely that he issued the order that the fifty Royal Air Force officers should be shot. The Prosecution has admitted that the charge cannot be substantiated.

Sir David Maxwell-Fyfe brought up four points in connection with this case and in which he made that charge against the defendant Keitel. He presented these charges to the defendant and the defendant in connection with these four points admitted them.

H0105-0103

Since I was going to call General Westhof only on the question of this order of Keitel's, and to testify that he did not issue the order and he did not translate it, I have no need to call him. However, Westhof was not present at the conference at the Obersalzberg so knows nothing first-hand. I see no further necessity for calling this witness.

THE PRESIDENT: Dr. Nelte, you are to decide whether you want to call him or not. Unless Sir David has said that he has not issued such an order, I think you can call him onthe ground that a charge was applied. The abandonment of charges which Sir David brought up would be a good reason for not calling him.

SIR DAVID MAXWELL FYFE: My Lord, there is no abandonment of any charge. In fact, the Prosecution stands by what is stated, about General Westhof, about the statements which apply to Defendant Keitel. That is the stand of the Prosecution. The Prosecution stands by that as it is put in.

DR. NELTE: May I please ask whether the Prosecution wishes to assert that General Westhof has testified that Keitel had issued this order or had transmitted it?

THE PRESIDENT: Dr. Nelte, you have the document which contains an excerpt of General Westhof's testimony. You know what he has said in that statement. The Tribunal proposes to call General Westhof themselves, in order to hear his statements; whether he adheres to the statement. And also Wielen, whose evidence is principally against the Defendant Kaltenbrunner.

DR. NELTE: Then I should also like to ask the Prosecution to produce the affidavit that General Westhof deposed on this matter, before the Tribunal so that it would be made clear.

THE PRESIDENT: When you say affidavit, do you mean the statement?

DR. NELTE: No. I mean the affidavit. No unsworn statement but a sworn statement. So far, the Prosecution has dealt only with unsworn to protocols which Col. Williams required and received from the Defendant, and it is this affidavit which I want. This affidavit states clearly Westhof's statement that he had never stated that Keitel ever issued any order nor did he transmit it.

H0105-0104

SIR DAVID MAXWELL FYFE: I have no affidavit. I havechecked with Mr. Roberts sna we have not got one. There were two interrogations, if my recollection is correct, one which was early and one on 2 November. There were two interrogations and apart from the reports of the interrogations, one of which I put in, they are in Dr. Nelte's document book. I have no affidavit. If I had, I should produce it at once. I don't know where Dr. Nelte got the information, but ceftainly no affidavit has ever been brought to my attentions.

THE PRESIDENT: The only thing the Tribunal can find is a statement made by General Westhof and a certain gentleman whose name I have forgotten. Oh yes, Brigadier Schepp. The course which the Tribunal proposes to to call General Westhof and to ask him whether his statement made in that document is accredited to him.

SIR DAVID MAXWELL FYFE: The Prosecution has not the slightest objection to that.

THE PRESIDENT: The Marshall will have General Westhof and also Wielen--they will be here tomorrow morning at 10:00 o'clock.

MARSHALL OF THE COURT: Yes.

THE PRESIDENT: The Tribunal will now adjourn.

(The Tribunal adjourned until 1000 hours, 10 April 1946).